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QUARTERLY REPORT

JULY — SEPTEMBER 2016

CIVIL SOCIETY INITIATIVES TO PROMOTE THE RULE OF LAW (CSI.ROL) IN SRI LANKA

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ACRONYMS

ABA	American Bar Association
ADR	Alternative Dispute Resolution
ADT	Alliance Development Trust
BASL	Bar Association of Sri Lanka
CEO	Chief Executive Officer
CJE	Continuing Judicial Education
CLE	Continuing Legal Education
COP	Chief of Party
COP	Coordinating Officer Representative
CSI.ROL	Civil Society Initiatives to Promote the Rule of Law
CSO	Civil Society Organization
CWD	Center for Women in Development
ICT	Information and Communication Technology
ICTJ	International Center for Transitional Justice
JSC	Judicial Services Commission
LAC	Legal Aid Commission
LHRD	Lawyers for Human Rights Development
LRC	Land Reform Commission
MOJ	Ministry of Justice
MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
NIMB	National Institute of Business Management
PSU	Program Support Unit
ROLI	Rule of Law Initiative
SGBV	Sexual and Gender Based Violence
SIPL	Strategic Inspirations, Pvt Limited
SLJI	Sri Lanka Judges' Institute
SOW	Scope of Work
TOT	Training of Trainers
TRC	Truth and Reconciliation Commission of South Africa
USAID	United States Agency for International Development
WIN	Women in Need
WLAN	Wireless Local Area Network

PROGRAM BACKGROUND

Since September of 2013, Millennium DPI has been implementing the United States Agency for International Development's (USAID's) Civil Society Initiatives to Promote the Rule of Law (CSI.ROL) delivering responsive and collaborative assistance to Sri Lankan institutions and helping them develop sustainable solutions that improve the delivery, accessibility, and quality of justice. CSI.ROL has focused on promoting the rule of law and access to justice in Sri Lanka through support to targeted government institutions and civil society organizations (CSOs). Working with counterparts in the Sri Lanka government, the Bar Association of Sri Lanka (BASL), the Legal Aid Commission (LAC), educational and research institutions, and local non-governmental organizations (NGOs), CSI.ROL is building Sri Lankan capacity to design and implement reforms and engage in evidence-based policy research to improve access to legal services for marginalized and vulnerable populations, enhance legal education and training for lawyers, judges, and non-judicial officers, and improve the effectiveness and efficiency of the justice system.

In its first two years, CSI.ROL built the human and institutional capacity of the BASL and the LAC, supporting dedicated program support units (PSUs), training BASL members and LAC legal officers, and implementing internal systems reforms, including the BASL's Strategic Plan. The program has also increased access to justice by expanding legal awareness and legal services through grants to local NGOs and support to provincial LAC offices across Sri Lanka. In Year 3, building upon this foundation, CSI.ROL has focused on:

- Facilitating implementation of the BASL Strategic Plan, including the enhancement of continuing legal education, promoting professional ethics, and strengthening the organizational development of the BASL
- Strengthening the research and evidence-based advocacy activities of the BASL, particularly as they concern justice sector reforms
- Increasing the capacity of the LAC to design and sustainably implement legal awareness and outreach projects
- Improving the knowledge and skills of LAC legal officers to ensure high quality legal services
- Supporting the expansion and sustainability of legal assistance programs throughout Sri Lanka by providing support to NGOs and CSOs that provide legal counseling and representation and conduct public outreach.

Taking advantage of new political opportunities and responding to requests for support from the government of Sri Lanka, CSI.ROL expanded efforts in Year 3 under a revised Scope of Work (SOW), approved by USAID in December 2015, to support the Ministry of Justice (MOJ), the Judicial Services Commission (JSC), and the Sri Lanka Judges' Institute (SLJI) in the areas of case management, court administration, judicial training, and institutional capacity building.

In September 2016, USAID granted a no-cost extension to CSI.ROL through December 15, 2016, to allow for the successful completion and expansion of priority activities.

ANNUAL UPDATE: SIGNIFICANT ACHIEVEMENTS IN YEAR 3

The CSI.ROL Project supports efforts to strengthen the rule of law in Sri Lanka by: 1) assisting targeted CSOs that advocate for and support the enforcement of the rule of law; 2) supporting non-government actors that seek to improve the management and efficacy of the Sri Lanka legal system; 3) improving access to legal services for Sri Lankan citizens; and 4) strengthening justice sector institutions to improve their capabilities and management processes. In Year 3, responding to new political opportunities and requests from the new national government of Sri Lanka, CSI.ROL expanded its focus by incorporating this fourth element of programming support to justice sector institutions through a revised project SOW (approved by USAID in December 2015). Under this new stream of activities, CSI.ROL has built important relationships in Year 3 with the MOJ, the SLJI, the JSC, the Attorney General's Department, and other key institutional justice sector actors. A Memorandum of Understanding (MOU) expressing the mutual commitment and collaboration between USAID and the MOJ was signed in May 2016, and another was signed between the CSI.ROL project and the SLJI in October 2016. Establishing these new relationships has fostered a climate of technical, apolitical support for the good governance objectives of the new Sri Lanka government and set the foundation for future USAID technical assistance in the justice sector.



USAID Acting Mission Director Reed Aeschliman signs the MOU with the Minister of Justice, Wijedasa Rajapaksha, and Secretary of the MOJ, Padmasiri Jayamanne, May 25, 2016

Recognizing these potential opportunities for greater impact, CSI.ROL and Millennium DPI Partners reconfigured the project's operational structure in Year 3 by deploying a field-based Chief of Party (COP) for the first time since the start of the project. COP Tiernan Mennen moved to Sri Lanka in November 2015.

CSI.ROL incorporated strategic new activity streams into each of the project's existing five components and the Year 3 Work Plan, to reflect the requests of the new partner justice sector institutions and develop an objective, analytical basis for future programming.

Key outcomes and achievements from Year 3 are outlined in the sections below.

COMPONENT I: INSTITUTIONAL CAPACITY BUILDING

In Year 3, CSI.ROL further improved professional management and institutional capacity by finalizing a five-year Strategic Plan with the BASL. CSI.ROL team members seconded to the BASL worked with the Program Committee to improve fundraising skills with training on

grant writing as well as project management; supported the creation of the Chief Executive Officer (CEO) position; mentored the CEO on business planning; and facilitated an organizational self-assessment. With CSI.ROL support, three international specialists from other bar associations traveled to Sri Lanka to mentor BASL personnel. Ellyn Rosen from the American Bar Association (ABA) collaborated with BASL leaders in February 2016 to promote ethics in the legal profession. Barbara Opatowsky, also from the ABA, provided expertise on business planning and fundraising in April. Finally, expert Mary Frances Edwards worked with BASL leaders in June–July 2016 to develop continuing legal education (CLE) structures and CLE-related fundraising opportunities.

CSI.ROL also continued to support the BASL’s institutional growth, with projects such as an Information and Communication Technology (ICT) Assessment and improvements to the BASL website; purchasing new legal research resources for 10 provincial Bars; supporting the annual BASL membership survey; and hosting key legal profession events such as the National Law Conference in March 2016, which included participation from the Sri Lankan President, Prime Minister, Chief Justice, Minister of Justice, and other dignitaries.

Finally, CSI.ROL completed a third study tour for the BASL to South Africa to analyze the experiences of the legal profession in promoting access to justice and reconciliation in post-Apartheid South Africa. The study tour created new networks between the BASL and Bar leaders in South Africa, including with Justice Albie Sachs, Howard Varney, and Justice Richard Goldstone. The expertise acquired during this trip positioned the BASL as an important actor in promoting reconciliation and constitutional reform to improve access to justice for marginalized populations in Sri Lanka.

COMPONENT 2: IMPROVE THE BASL’S ADVOCACY CAPACITY AND ASSIST JUSTICE SECTOR INSTITUTIONS TO DELIVER MORE TRANSPARENT AND HIGHER QUALITY JUSTICE

This component had focused primarily on BASL advocacy efforts for improved case management, but in Year 3, responding to new opportunities that developed as a result of the election of a justice reform-oriented government, support was expanded to include technical support to the MOJ to promote reforms to address case delay and improve court management.

CSI.ROL seized upon the opportunity to expand its efforts to include technical support to the MOJ, promoting reforms that address case delay and improve court management. CSI.ROL managed a team of local and international experts conducting a quantitative and qualitative study to identify the primary causes of case delay. The methodology of the study was based on interviews with judges and court staff and the review, collection, and analysis of data from a random sampling of 350 cases across 20 courts. The study revealed an average case length of 5.35 years, with each case averaging 23 postponements. The main causes of delay were: 1) lawyer requests for continuance, 2) “want of time” by the court, 3) procedural steps, and 4) more time requested for investigation/prosecution. This report was presented to the MOJ, the JSC, and other stakeholders, and it will be a focus of discussion at the case management strategic workshop in October 2016, led by CSI.ROL in collaboration with the MOJ and other justice sector stakeholders.

CSI.ROL also extended assistance to the MOJ to improve capacity of non-judicial court staff. Working with the Training and Court Administration Department, CSI.ROL trained 420 court staff in the provincial court districts of Jaffna, Anuradhapura, Nuwara Eliya, and Polonnaruwa on court procedure, office and finance procedures, and laws related to non-judicial staff. CSI.ROL is also supporting a critical analysis of the entire training curricula for court staff to identify opportunities to enhance their skills and responsibilities, including incorporating modern concepts of court administration. The resulting report will offer analysis and recommendations based on interviews and focus groups with court staff to develop training based on modern adult teaching methodologies. The report will be finalized in November and will focus on incorporating methods for enhancing court administration and providing more timely and efficient service to the public.

CSI.ROL also helped the MOJ upgrade and re-launch the online legal database LawNet and the MOJ website, providing easier access to legal information for lawyers and the public in the three main languages of Sri Lanka — Sinhalese, Tamil, and English. The ability to access laws, regulations, and other important legal documents will enhance access to justice for citizens, increase awareness of the reform efforts of the MOJ, and allow lawyers to provide better service.

Although support to the BASL has been scaled down as its capacity grew in Year 3, CSI.ROL continued to support strategic BASL initiatives, such as the completion of the BASL case management membership survey report in March 2016, entitled *Court Performance and Efficiency: Perception of the Legal Practitioners, The Membership Survey of the Bar Association of Sri Lanka*. A series of roundtables with provincial Bars was carried out to discuss the report before it was officially launched, and over 500 copies were distributed at the BASL National Law Conference in March 2016. CSI.ROL has also supported the BASL's efforts to promote case management reform through the recent completion of an Asian regional comparative analysis of case management reform as a tactic to reduce court backlog, to be published in October 2016.



Panel on case delay and case management reform at the National Law Conference, March 2016

COMPONENT 3: STRENGTHENING THE TECHNICAL KNOWLEDGE OF JUDGES, LAWYERS, AND NON-JUDICIAL OFFICERS

CSI.ROL successfully concluded its strategic support to build the effectiveness and sustainability of the BASL's CLE program in Year 3 with a combination of lawyer training, curriculum development for future courses, and adaptation of institutional structures for the sustained provision of CLE. The project's international CLE expert, Mary Frances Edwards, advised BASL committees and staff on content and structures for sustained CLE efforts. CSI.ROL support in Year 3 allowed the BASL to develop and execute a training series for provincial Bars on Oral Advocacy, Negotiation Skills, and Civil Law and Procedure that reached more than

450 lawyers in five provinces (see table below). CSI.ROL also helped the BASL expand its role in CLE offerings more generally to include a new annual orientation program for 122 new lawyers in February 2016; a 12-week English language training program for another 122 lawyers that concluded in June 2016; and the launching of the first BASL Public Interest Scholars Program, which sent 20 young lawyers to LLM programs in public interest law at the University of Colombo and the Open University of Sri Lanka.

BASL Provincial Bar Training Series	Date and Location	Male	Female	Total
Training Program on Oral Advocacy, Negotiation Skills, and Civil Law & Procedure	January 16–17, Kandy	80	58	138
Training Program on Oral Advocacy, Negotiation Skills, and Civil Law & Procedure	April 1–2, BASL Auditorium, Colombo	35	102	137
Training Program on Oral Advocacy, Negotiation Skills, and Civil Law & Procedure	May 7–8, Matara	26	28	54
Training Program on Oral Advocacy, Negotiation Skills, and Civil Law & Procedure	June 10–11, Kuliyaipitiya	33	27	60
Training Program on Oral Advocacy, Negotiation Skills, and Civil Law & Procedure	July 16–17, Rajarata Hotel, Anuradhapura	25	37	62

Working with new institutional partners the SLJI and MOJ, CSI.ROL focused on ensuring that judges have improved training resources and access to primary research tools. A comprehensive online judicial research database was created for the SLJI that will allow judges to conduct research on the latest judgments, laws, and reports. Providing judges ready access to updated sources of law will improve the accuracy and consistency of decisions nationwide, as well as improve the courts' efficiency. CSI.ROL also began developing new judicial training modules that incorporate interactive adult learning methodologies. Five new modules are being developed in critical new areas of jurisprudence: Forensic Medicine, Partition Law, Electronic Evidence, Family Law, and Case Management. The Forensics module was premiered for 80 High Court Judges in June 2016; the other four modules will be completed by November 2016. CSI.ROL also supported the creation of a 12-week English language training course, which was provided to 50 Appellate and Supreme Court stenographers in August 2016.

COMPONENT 4: ESTABLISHING PARTNERSHIPS FOR THE BAR ASSOCIATION OF SRI LANKA TO INCREASE THE EFFICACY OF THE LEGAL SYSTEM

CSI.ROL has worked intensively with BASL to build its capacity to contribute effectively to research-based advocacy that improves the Sri Lankan legal system. CSI.ROL support to establish the Research Unit at the BASL has allowed the BASL to take important stances on a range of topics, including case delay, legal education, environmental law reform, witness and victim protection, legal aid, and gender equality. In addition to the Case Management Membership Survey, the BASL has published reports that review pending legislation and advocate for enhancements to legal aid provision. This past year the BASL also conducted the following conferences, roundtables, and forums, with CSI.ROL support (see table below).

BASL Policy and Advocacy Events	Date and Location	Male	Female	Total
Public Forum on Environmental Law	June 9, BASL Auditorium, Colombo	64	45	109
National Law Conference	March 19–21, Wadduwa	93	123	216
National Forum on Access to Justice	June 16, Colombo	29	21	50
Global Perspectives on Mediation	June 23, BASL Auditorium, Colombo	14	11	25
Forum on Witness and Victims Protection	September 7, BASL Auditorium, Colombo	66	74	140

The CSI.ROL-sponsored study tour to South Africa in August 2016 also prompted strong commitment from the BASL to play a greater role in promoting discussions of the needs and modalities for reconciliation and transitional justice in the Sri Lankan context. With CSI.ROL support, the BASL is planning a series of provincial discussion forums with local lawyers and communities in October–November 2016 to build awareness of reconciliation and dispel misunderstandings of transitional justice.

COMPONENT 5: IMPROVING ACCESS TO LEGAL SERVICES FOR MARGINALIZED COMMUNITIES

Under Component 5, CSI.ROL works in close coordination with the LAC and local NGOs to improve access to legal services for marginalized communities and populations, both through the creation and expansion of new legal aid and legal awareness services and through technical and management capacity building. In Year 3, CSI.ROL supported the LAC to reach over 6,000 community members with new awareness-raising activities on sexual and gender-based violence (SGBV), migrant rights, and the rights of fishing communities. CSI.ROL also supported the LAC to conduct an



Legal aid provision in Puttalam District by CHANGE, June 2016

extensive legal investigation into the causes and solutions for the large number of land dispute cases encountered by LAC offices in the Eastern and Sabaragamuwa provinces, which support over 7,000 families. Two provincial forums were conducted in September 2016, and a national policy forum is planned for October 2016. CSI.ROL also supported the annual LAC officer training in December 2015 and additional trainings for LAC officers.

Through grants to the NGOs Women in Need (WIN), the Center for Women in Development (CWD), Lawyers for Human Rights Development (LHRD), CHANGE, and the Alliance Development Trust (ADT), CSI.ROL has further increased the availability of quality legal services for marginalized populations across Sri Lanka. Key achievements with NGO grantees in Year 3 included:

- **Legal Aid: 2,751** Sri Lankans were able to protect their rights and access legal remedies through representation and counseling provided by grantees LHRD, WIN, CWD, and CHANGE.
- **Legal Identity:** Support was provided to **2,919** people by CHANGE, ADT, and CWD, most affected by displacement from the war, to recover their lost, damaged, and unregistered documents.
- **SGBV: 186** SGBV victims received legal aid and psychosocial counseling from WIN.
- **Awareness Program: 2,234** citizens, including senior students, internally displaced populations, marginalized communities, and women groups, attended CSIROl grantee awareness programs.

Trainings of Public Officials: CSIROl grantees WIN, CHANGE, and ADT conducted sensitivity training for **1,837** community mediators and middle-level government officers on SGBV issues, laws related to women's and children's rights, and land issues.

PROGRAM OPERATIONS

In Quarter 4, CSI.ROL further strengthened new institutional partnerships with the Government of Sri Lanka. On October 5, CSI.ROL and the SLJI signed an MOU that memorialized their mutual commitments to building the capacity of Sri Lanka's judges. The MOU is the first to be signed by the SLJI with an international donor. USAID's CSI.ROL Contracting Officer Representative (COR) and Program Management Specialists, Angelina Hermon and Shirani Narayana, observed the signing.

CSI.ROL is now scheduled to close on December 15, 2016, after receiving a 75-day extension from USAID. This extension allowed targeted program activities with the LAC and BASL to be extended to ensure their effective completion while the remaining activities are ramped down as scheduled. The extension also allows additional activities with the MOJ and SLJI to be conducted as detailed in the Extension Work Plan submitted to USAID on September 15, 2016. The CSI.ROL grant program was completed and all grants administratively closed this quarter.

To document the success of our grants program and initiatives with the LAC, we are compiling success stories focused on thematic legal areas. The second Success Story, on legal documentation and protecting the right to legal identity, is attached to this report.



SLJI Director Judge Ruwan Fernando and CSI.ROL Chief of Party, Tiernan Mennen, sign the SLJI-CSI.ROL Memorandum of Understanding, October 5, 2016

COMPONENT I. INSTITUTIONAL CAPACITY BUILDING

The BASL plays an essential role in enhancing the quality of the legal profession and monitoring and advocating for justice sector reforms that ensure fairness, independence, and effectiveness. Since the inception of the project, CSI.ROL support has been designed to provide strategic guidance and management and technical assistance for institutional capacity building goals. CSI.ROL and a subcontractor, the ABA Rule of Law Initiative (ROLI), facilitated the BASL's development of its Strategic Plan in accordance with its identified priorities. The Strategic Plan also frames key areas where support is needed. Following this framework, CSI.ROL provided technical and management assistance to the BASL in Quarter 4 in key areas where assistance would facilitate future improvements and ensure sustainability. CSI.ROL also continued the strategy of transitioning project activities to the BASL as the project closes down at the end of the year.

I.1. PARTNERSHIP WITH THE AMERICAN BAR ASSOCIATION (ABA) TO SUPPORT INSTITUTIONAL CAPACITY BUILDING

A. Finalization and Implementation of the BASL Strategic Plan

ABA ROLI and CSI.ROL provided technical and management support to the BASL to draft a Strategic Plan and an accompanying Implementation Action Plan that established a set of prioritized goals and activities for the BASL over a five-year period. The priorities were:

1. Financial Stability and Sustainability
2. Enhancement of the Legal Profession by increasing support for the Junior Bar and expanding CLE
3. Increased Diversity within the Profession
4. Professional Ethics
5. Consolidated Management Structure
6. Enhanced ICT
7. Expansion of the Legal Profession to meet the demand for services.

This quarter, CSI.ROL continued to support the BASL to address the priorities under the Strategic Plan, including through continued strengthening of direct relationships between the BASL and ABA experts and institutions, focused on the five areas below.

Financial Stability and Sustainability

CSI.ROL has been supporting the BASL to identify new areas for revenue generation and strategies for their effective development and implementation. CSI.ROL-seconded staff at the BASL have been developing a series of member-focused paid services, such as CLE programs, conferences, and non-legal skills trainings, that create revenue streams for the BASL while enhancing the legal profession. CSI.ROL has also supported business planning and mentoring for the BASL, including through attendance at ABA conferences and professional exchanges. Following on her consultations from June, this quarter ABA expert and former New York Bar

Executive Director Barbara Opatowsky, together with CSI.ROL staff, completed a report for the BASL Management Committee with detailed recommendations for improved management and business planning (see Attachment H). Her recommendations focused on four main areas:

1. Enhancing current income streams — membership dues; rent; identity cards and car passes; sponsorship and advertising; programs and events; publications; grants
2. Developing new income streams — Affinity (rewards) programs; gala; trade show or vendor exhibits; CLE
3. Evaluating programs where expenses exceed income — post office; library; bookshop
4. Tracking and reducing expenditures.

CSI.ROL will continue to support the BASL during the extension period to implement these recommendations, including through further mentoring on executive management and business planning.

Consolidated Management Structure

Through CSI.ROL technical support and professional exchanges with other bars, including the ABA, the BASL decided to consolidate its management structure by creating a CEO position, which was filled in January 2016. Mentoring the new CEO, CSI.ROL's bar association expert, Ms. Opatowsky, provided on-site counsel during her June 2016 visit, with regular follow-up remotely. CSI.ROL will support the BASL's invitation to host the Malaysian Bar's CEO in order to learn from their experience transitioning to a CEO-led organization, reinforcing the relationship with the Malaysian Bar that started during the BASL's exchange visit in Year 2. The Malaysia Bar created the CEO position a few years ago, and it has since become a stronger, more professional organization.

The consolidated management structure further calls for re-defining staff roles, streamlining existing positions, and empowering key staff, including the CEO. To help the BASL navigate this change, CSI.ROL hired a Sri Lankan management consulting firm, Strategic Inspirations, Pvt Limited (SIPL), a firm experienced with supporting change management with other professional associations in Sri Lanka. SIPL will conduct a participatory organizational self-assessment with BASL staff that will help the leadership identify necessary organizational management reforms that will improve effectiveness and financial stability. The assessment, which was started in September 2016 and will be completed by October 2016, will produce a viable, cost-effective action plan to meet the short-, medium-, and long-term goals of the BASL.

Enhance Professional Ethics

The ABA *pro bono* ethics expert, Ellyn Rosen (Deputy Director of the ABA Center for Responsibility), completed her final report on enhancing professional ethics this quarter. The main recommendations are as follows (see also Attachment C):

1. The BASL should study and propose updates to the Supreme Court Rules for the Conduct and Etiquette of Attorneys at Law.
2. The BASL's website should include a centralized repository of information regarding the regulation of the Sri Lankan legal profession.

3. The BASL should annually publish a report highlighting its disciplinary work and ethics education efforts on its website as well as providing it to the Supreme Court.
4. The BASL should enhance its online directory of lawyers.
5. The BASL should create guidelines for the conciliation process, develop more robust mechanisms to help members with law practice management, and develop a plan to offer enhanced mentorship opportunities.
6. The BASL should adopt guidelines for disciplinary file management and control and the retention of case files.
7. The BASL should enhance the guidelines for disciplinary inquiries to include time standards.

CSI.ROL has already helped the BASL implement several of these recommendations this quarter. With CSI.ROL financial and technical support, the BASL has begun revamping its website to include:

- An online directory of lawyers, in accordance with the current rules regarding touting and advertising, to ensure that the public has easy access to optimal information about Sri Lankan lawyers
- A dedicated section on “Sri Lankan Legal Profession and Legal Ethics, Professionalism and Regulation”
- A section for BASL reports that will include the BASL annual report with the results of disciplinary and ethics education activity.

The BASL website with these changes will be completed by October 2016.

Enhanced Information and Communication Technology (ICT)

With CSI.ROL’s support and to enable the substantive improvements to its website described above, the BASL commissioned improvements to its ICT infrastructure. The BASL is incorporating a content management tool that will allow it to regularly update the content on its website, ensuring that the BASL will be able to sustain the improvements in the site content without CSI.ROL assistance. CSI.ROL is also supporting implementation of a wireless local area network (WLAN) with Advanced Server, which will be completed by November 30.

Expand BASL Continuing Legal Education

CSI.ROL is supporting the BASL’s strategic objective to expand CLE, both as a mechanism to increase the technical legal capacity of lawyers throughout Sri Lanka, and as a way to increase the BASL’s revenue stream and its role in regulating and enhancing the profession. To this end, CSI.ROL hired international legal education specialist Mary Fran Edwards to review the BASL CLE program, content, and institutional structures. Ms. Edwards traveled to Sri Lanka in June–July 2016. As part of her assignment, she met with BASL leaders to discuss current proposals to create an independent CLE institute. Based on her experience as the Education Director for the District of Columbia Bar and the National Judicial College, she advised the BASL on institutional structures, curricula, and other considerations that would improve the success of such an endeavor. Ms. Edwards’ final report, with recommendations building on existing BASL

plans on institutional structures for CLE, was provided to the BASL in August 2016. Her core recommendations were as follows (the full report can be found in Attachment G):

1. Organize a guarantee company as a private not-for-profit entity
2. Obtain tax exempt status from Parliament
3. Develop a budget and business plan
4. Start out small with CLE courses, then progress to certificates, diplomas, and degrees
5. Enforce quality control through standardization, monitoring, and evaluation.

As detailed further in Component 3.1, Ms. Edwards also met with BASL CLE trainers and reviewed course materials, providing guidance to the BASL on enhancing and ensuring the quality of CLE.

I.2. PROFESSIONAL EXCHANGE AND STUDY TOUR PROGRAMS

CSIROL conducted a third study tour to South Africa on August 14–21, 2016. With support from subcontractor ABA ROLI, CSIROL has been conducting annual professional exchanges between the BASL and other Bar associations to expose BASL leadership to concepts and strategies for increasing the professionalism and positive impact of the legal profession, as well as to create relationships for future collaboration and technical assistance. The study tour to the US in Year 1 established professional exchanges with the ABA that are still providing technical guidance to the BASL. The study tour to Malaysia and Singapore in Year 2 demonstrated a comparative model of recent Bar reform and created regional connections. The objective of this final study tour — entitled *Pursuing Justice: Lessons from South Africa* — was to examine the role of the Bar in promoting access to justice, with a particular focus on post-conflict reconciliation and transitional justice, based on South Africa’s experience. The trip to South Africa addressed an important goal in the BASL Strategic Plan: to increase the role the BASL plays in promoting access to justice and supporting the rights of vulnerable populations. The trip also built on the BASL National Law Conference in March 2016 where South African Constitutional Judge Albie Sachs gave the keynote address and presented President Sirisena with a copy of the South Africa Bill of Rights.

After discussion with the BASL, it was agreed that maximum value would be gained from the study tour by including participation from a cross-section of justice sector institutions. CSIROL invited the MOJ, the JSC, and the Attorney General’s Department to nominate participants. Twelve participants were nominated and eleven attended, including the Minister of Justice and the Attorney General.¹ During the course of the study tour, the High Commissioner of Sri Lanka to South Africa was also a regular participant.

South Africa Study Tour Participants		
Participant	Title	Institution
Ruchira Gunasekara	Member, Executive Committee	Bar Association of Sri Lanka
Praboda Ratnawardena	Kegalle Bar; Chairman – Law and Development Committee	Bar Association of Sri Lanka

¹ Ministry of Justice Secretary Padmasiri Jayamanna was also invited but could not attend due to conflicts.

South Africa Study Tour Participants		
K.S. Ratnawel	Member, Bar Council	Bar Association of Sri Lanka
Nayomi Wickramaratne	Program Manager	Bar Association of Sri Lanka
Geoffrey Alagaratnam	President	Bar Association of Sri Lanka
Hon. Jayantha Jayasuriya	Attorney General	Attorney General's Office
P.I.S. Demuni de Silva	Senior Deputy Solicitor General	Attorney General's Office
Hon. Wijeyadasa Rajapakse	Minister of Justice	Ministry of Justice
Mr. S.P.K Ekarathne	Consultant to Minister	Ministry of Justice
Hon. M.D.S. Abeyratne	Judge of the Civil Appeal High Court/ Kandy	Judiciary
Hon. A. Premashankar	Judge of the High Court/ Trincomalee	Judiciary

The study tour covered seven days split between Pretoria, Cape Town, and Johannesburg, allowing for meetings with the full complement of current and past actors in access to justice, including the South Africa Bar leadership, legal aid organizations, and independent commissions for the profile of each meeting). The main meetings included:

- The Law Society of South Africa, the umbrella organization of all the South African Bar associations, discussed South Africa's mandatory pro-bono requirement, CLE for lawyers, and disciplinary structures. The role of the Bar in supporting and advocating for reforms to improve access to justice was also discussed.
- Department of Justice and Constitutional Development Deputy Minister John Jeffery and his colleagues addressed the roles and responsibilities of the department, including the department's role in implementing the recommendations of the Truth and Reconciliation Commission.
- Constitutional Court representatives shared information about the creation, mandate, and role of the Constitutional Court in South Africa's legal system after Apartheid. Central to the discussion was the evolving mandate of the court within the justice system.
- Mr. Howard Varney, a leading human rights lawyer in South Africa and a senior program adviser with the International Center for Transitional Justice (ICTJ), discussed challenges



Delegation meeting with the South Africa National Prosecution Authority



Delegation visit to the South African Constitutional Court

and critiques of the post-Apartheid justice mechanisms, the treatment of victims through the Truth and Reconciliation Commission (TRC), the controversial role of amnesty, and other lessons learned in the transitional justice context.

- Justice Richard Goldstone, a former Judge of the Constitutional Court of South Africa and Chairperson of the Goldstone Commission, provided the delegation with background about the South African justice sector during and after Apartheid.
- Legal Aid South Africa discussed its mandate to provide legal aid to vulnerable groups who cannot afford legal representation as outlined in the new South African constitution.
- The National Prosecuting Authority provided an overview of prosecutions related to transitional justice and discussed the need to strike a balance between truth and reconciliation and prosecutions.
- Justice Albie Sachs discussed the role of the newly established Constitution and Constitutional Court of South Africa in reconstructing South Africa.
- The NGO Black Sash provided an overview of how the organization has evolved in promoting socio-economic rights in South Africa and how paralegals have become a vital part of the legal community in the country.
- Former Truth Commissioner Mary Burton provided insight into the TRC process and outcomes, addressing the failures in the post-TRC process, such as the government lacking a formal structure to implement the recommendations of the TRC to address the long-term effects of Apartheid.
- A panel of speakers at the Institute for Justice and Reconciliation addressed the current state of affairs in South Africa regarding social issues and the failures of the TRC and the South African government to address the legacy of economic and social inequality created under Apartheid that still impacts many victims.
- Representatives of the Dullah Omar Law Center highlighted the importance of protecting economic, social, and cultural rights, particularly of “minority” populations, the challenges of dealing with a multi-cultural society, and the broader importance of criminal law reform.
- The Legal Resources Centre hosted a panel discussion to share their work running the largest public interest human rights clinic in South Africa. The panel discussed the Legal Resource Centre’s role in promoting economic, social, and cultural rights as progressive rights under the new constitution with a particular focus on land rights as a legacy of the Apartheid era.

“Many people wanted prosecutions. The TRC was a political and moral compromise to create a united history.”

– Justice Goldstone



Delegation meeting with Mary Burton and Black Sash

Each morning during the study tour, the CSI.ROL and ABA staff led debrief sessions to facilitate discussions on the lessons learned from South Africa's approach and what aspects fit the Sri Lankan context. Participants noted that they were able to gain diverse perspectives of the TRC process, greatly enhancing their understanding of its complexities and challenges. Following the study tour, on September 23, CSI.ROL hosted a thorough debrief and planning session in Colombo to solidify next steps. All agreed that the BASL was a prime institution to organize and implement forums for lawyers and the public to discuss the contours of reconciliation and access to justice from the South Africa perspective. CSI.ROL will work with the BASL during the extension period through December 2016 to organize these forums.

A. Relationship with Other International Bar Associations

CSI.ROL support for BASL delegates to attend the South Africa study tour also created new relationships with the South Africa Bar Association, the Black Lawyers Association, and other legal NGOs that will provide more opportunities for the exchange of information and mentoring in furtherance of the CSI.ROL objective to strengthen the BASL as a positive factor for rule of law reform in Sri Lanka. In addition, as discussed above, the relationships established with the Malaysian Bar through the 2015 study tour will be further strengthened through a CSI.ROL-supported visit by the Malaysia Bar CEO to Sri Lanka in November 2016, to provide mentoring to BASL counterparts on the reforms that were needed to make the newly created CEO position a success in Malaysia.

COMPONENT 2. IMPROVE THE BAR ASSOCIATION OF SRI LANKA'S ADVOCACY CAPACITY AND ASSIST JUSTICE SECTOR INSTITUTIONS TO DELIVER MORE TRANSPARENT AND HIGHER QUALITY JUSTICE

CSI.ROL has expanded support to justice sector institutions such as the MOJ and the SLJI in Year 3, while continuing to support the court reform research and advocacy efforts of the BASL that have been ongoing since Year 1. In Quarter 4, CSI.ROL discussed the results of the Case Management Assessment with the MOJ and the JSC and launched a program to provide technical assistance on court automation and case management reforms. A workshop for the Court Automation Steering Committee and 35 judges participating in the newly-designed automation pilot will be held on October 28–29. CSI.ROL also finalized subcontracts to update Law Net and the MOJ website, and the project continued to support the MOJ to improve non-judicial staff administration through a series of provincial trainings and the initiation of a training needs assessment for non-judicial staff. The BASL Research Unit completed reports this quarter on comparative international case management reforms and will publish a series of policy articles on case delays and case management reform based on these reports.

2.1. PROMOTION OF IMPROVED CASE MANAGEMENT AND ADMINISTRATIVE PROCESSES WITHIN THE LEGAL SYSTEM

Under the modified CSI.ROL SOW approved by USAID in December 2015, CSI.ROL began providing support to the MOJ to improve the administration of justice through enhanced case management and court administration. In Quarter 4, CSI.ROL focused on dissemination and discussion of the recommendations from the CSI.ROL Case Management Assessment and building consensus on the next steps in crafting reforms to reduce case delay.

A. Provide Technical Assistance to the Ministry of Justice on Case Management

The CSI.ROL Case Management Assessment has led to discussions with the MOJ on a series of technical support activities on case management and court automation. The Case Management Assessment draft was presented to the MOJ, the JSC, and the Attorney General's Office in July, and a discussion was held on September 28 with the Minister, Secretary, and Additional Secretaries of Justice about the findings and recommendations. Their comments and feedback are being incorporated into a final draft. The assessment will now inform a series of stakeholder discussions on next steps and potential pilot project and reform initiatives. CSI.ROL will hold a two-day workshop with the MOJ and other Government of Sri Lanka stakeholders, including the MOJ-chaired Court Automation Committee, on October 28–29 to discuss potential policy and procedural reforms, institutional capacity gaps, sequencing of automation, and the role of various institutions in improving case management and reducing delay.

B. Case Management Research Reports Produced by the BASL

Following the provincial bar roundtable discussions (Year 2) on the Membership Survey Report's findings, CSI.ROL supported the BASL Research Unit to conduct empirical research on reforms undertaken in other countries (including Pakistan, Indonesia, and the U.S.) in order to

assist the BASL in formulating policy recommendations for court reform. The BASL completed the report on international comparative case management reform in September. The Research Unit will publish this and other case management-related reports into a compendium in October 2016. The research will then be incorporated into a broader BASL policy paper on recommendations for case management reforms to be completed by the BASL in late 2016, pending internal approvals by BASL leadership (see Attachment A).

C. Court Administration Skills Improved through Non-Judicial Staff Training

Based on the revised SOW from December 2015, CSI.ROL has been supporting the Non-Judicial Training Institute at the MOJ to improve and expand the reach of basic trainings for non-judicial staff on administrative topics such as file maintenance, procurement, payment procedure, human resources development, disciplinary inquiries, and productivity training, as well as on ICT and language skills. Per the request of the MOJ, CSI.ROL is supporting a series of non-judicial personnel training sessions around the country in areas that would otherwise not be covered by the MOJ. CSI.ROL supported trainings for court staff in the Jaffna and Anuradhapura districts in Quarter 2 and in Nuwara Eliya and Polonnaruwa in Quarter 4. The Nuwara Eliya training on July 11–12 benefitted 67 non-judicial officers (15 male and 52 female). The Polonnaruwa district training was held on July 30–31 and benefitted 71 judicial officers (20 male and 51 female). Both trainings focused on office procedures, financial procedures, and civil case procedure and were conducted by senior public officials, lawyers, and other professionals.

As part of CSI.ROL's continued support to the MOJ to improve court administration, an intensive language training in Sinhala and English started on September 11 at Jaffna Open University for 50 non-judicial staff working in the Jaffna and the Northern Province courts. The training will last 12 weeks. ICT training for court staff was initiated on September 27–29 at the Ministry ICT Lab in Colombo with resource persons from the National Institute of Business Management (NIBM), and 24 court staff participated (4 male and 20 female). The second batch of training will be October 24–26 in the MOJ Computer Lab.

D. Assessment of the Training Program for Non-Judicial Staff

In addition to the basic training support for provincial court district staff, CSI.ROL is supporting the MOJ to improve the capacity of non-judicial staff by enhancing training through an assessment of needs and gaps in current training offerings for court staff. The assessment is also considering new, advanced topics related to improvements in court administration and automation that non-judicial personnel will require. The JSC has appointed Mrs. C. Liyanarachchi, a retired District Court judge, as the lead consultant. CSI.ROL will support her efforts with input from the Case Management Assessment and consultants Richard Hoffman and Justice Salam. A draft of the final report was submitted to CSI.ROL on August 25, 2016, and has been reviewed and returned for further revisions. The final report will be prepared by the CSI.ROL team and submitted to the MOJ by the first week of November, after including inputs from the case management stakeholder workshop scheduled on October 28–29. Based on the assessment and other analysis, CSI.ROL will support the design and development of new training modules for court staff.

E. Law Net and MOJ Website

CSI.ROL is supporting the MOJ to ensure Law Net is a functional database and a primary source of legal and case law information for lawyers, public officials, and the public. After conducting a

technical analysis of each, CSI.ROL and the MOJ finalized a procurement process in July 2016 and signed a contract with Lanka Logistics Company Ltd. to update Law Net and the MOJ website. This quarter, CSI.ROL coordinated between the MOJ ICT department and the company to update Law Net's operating framework. By project end, 2,000 cases and Acts will have been uploaded to Law Net. The MOJ will then take over site maintenance, continuing to upload more cases and Acts.

COMPONENT 3. STRENGTHENING THE TECHNICAL KNOWLEDGE OF JUDGES, LAWYERS, AND NON-JUDICIAL OFFICERS

Component 3 expands the technical, management, and administrative capacity of lawyers, judges, and other court personnel such as court stenographers, through improved training programs and educational resources in partnership with the BASL, the SLJI, the MOJ, NGOs, universities, and training institutes. This quarter, CSI.ROL's support to the BASL's CLE program focused on issues of sustainability. CSI.ROL also finalized an MOU with the SLJI that frames the project's extensive support for the development of enhanced judicial educational resources and research tools.

3.1. THE BASL IMPLEMENTS LEGAL EDUCATION PROGRAMS FOR LAWYERS

Over the past year, CSI.ROL has supported the BASL to develop a suite of legal skills training in areas that are largely absent from the professional development of lawyers in Sri Lanka, such as client interviewing skills, negotiation and oral advocacy skills, and legal research. The courses will enhance legal practice in Sri Lanka as well as form the core of a sustainable BASL-administered CLE program.

A. Provincial Bar Trainings

Earlier this year, CSI.ROL supported a training of trainers (TOT) program at the BASL to develop a cadre of experienced trainers to support the systemization of CLE and the extension of the BASL's training offerings to the provincial bars. CSI.ROL has subsequently supported a series of provincial trainings on civil trial skills (e.g., how to draft complaints, answers, and other pleadings; pre-trial procedure; and the execution of judgments), negotiation skills, and oral advocacy using this new cadre of trainers. This quarter, CSI.ROL supported the last of the training series program in Anuradhapura on July 16–17, benefitting 62 lawyers (25 men and 37 women).

B. Standardized CLE Curriculum

CSI.ROL has also helped the BASL bring consistency to and instill quality standards within its educational offerings as part of its strategy to make comprehensive and elite CLE available to members throughout the country. To this end, CSI.ROL is assisting the BASL to develop a standardized CLE curriculum together with an institutional structure that ensures sustainability.

CSI.ROL has worked with the BASL to adapt a CSI.ROL-developed civil trial court skills LAC training manual as a basis for a standard curriculum on civil trial court skills trainings in the provinces. The manual covers civil procedure, family law, accident cases, landlord/tenant cases, and defamation. In addition, this past quarter CSI.ROL hired legal education specialist Mary Fran Edwards, a former Education Director for the District of Columbia Bar and the National Judicial College in Nevada, to work with the BASL CLE committee and course trainers to develop a standardized CLE curriculum and a set of training manuals on important topics. Ms. Edwards reviewed course materials for the negotiations, civil trials, oral advocacy, criminal justice, and ICT law courses and met with BASL resource persons to discuss ways to improve

each course. Ms. Edwards provided a memorandum to the BASL on recommendations for improving the quality of BASL's CLE courses and materials (see Attachment F). Her main recommendations were:

1. Expand the CLE curriculum so that it meets all members' needs
2. Provide TOT to improve the quality of trainers
3. Standardize courses
4. Have goals and learning objectives for all courses
5. Standardize course materials and have accompanying materials for each course
6. Encourage the use of audio visual aids
7. Monitor and evaluate courses.

Ms. Edwards subsequently drafted model curricula summary sheets for each course and conducted a training on adult teaching methodologies for BASL CLE resource persons. Ms. Edwards continues to provide technical assistance to CSI.ROL and the BASL by working with local resource persons and subject matter experts to complete two CLE training manuals as models, which the BASL will be able to adapt to other courses.

As part of her assignment, Ms. Edwards also attended meetings with BASL leadership on initiatives to start a new CLE guarantee company and drafted a memorandum with suggestions and lessons learned on institutional mechanisms for administering CLE from comparative experiences (see Component 1).

3.2. TRAINING FOR COURT STENOGRAPHERS

CSI.ROL is working with the Open University and the LAC to implement an English language course specifically designed for Appellate Court and Supreme Court stenographers. To create this course, the Open University modified their certificate course in English for Legal Professionals to make it relevant for court stenographers. CSI.ROL commenced the 12-week course (four hours/week for a total of 48 teaching hours) in May with 50 Appellate and Supreme Court stenographers. The course successfully concluded on August 13, 2016. The mid-course assessment was conducted on June 25 and the end-course assessment was conducted on August 13. The pre-test and post-test evaluation results will be released by the third week of October 2016. The certificate issuing ceremony will be held in November 2016.

3.3. SUPPORT TO CONTINUING JUDICIAL EDUCATION PROGRAMS

A. Improve Access to Legal Resources at the Sri Lanka Judges Institute

CSI.ROL has been working with the SLJI Institute to enhance legal resources for judges to improve both their educational opportunities and their access to legal research material to inform decision-making and judgments. Judges Net was proposed by the SLJI as an online resource exclusively designed to respond to judges' needs by providing them with access to summarized past judicial decisions, cross-referenced to Acts and related legal materials. This new searchable database will help the judiciary improve the consistency of judgments and help judges quickly access the relevant legal precedents for their cases.

CSI.ROL assembled a team of research assistants to support the SLJI in creating the Judges Net judgments resource library. The research team is drafting summary headnotes for major court judgments and summaries for consolidated acts that will be uploaded along with the full copy of the judgments to Law Net and the SLJI's Judges Net. The team completed 1840 case headnotes, 48 law reports, and 500 summaries of consolidated acts in Quarter 4. The full database will be completed and launched in December 2016.

Legal Resource	This Quarter	Total to be Completed
Sri Lanka Reports	26 completed	26 more to be edited, marked and uploaded
National Law Reports	22 completed	11 more to be edited, marked and uploaded
Case headnotes	1840 completed	1840 to be uploaded
Consolidated acts	500 edited	88 to be edited and all uploaded

B. Develop Continuing Judicial Education (CJE) Programs

CSI.ROL has been working with the SLJI to develop a program to enhance its continuing judicial education (CJE) programming to include new and increasingly complex areas of law. With technical assistance from CSI.ROL, the SLJI and the JSC have agreed on prioritizing five modules: Forensics; Electronic Evidence; Land Partition; Family Law; and Case Management. The following legal experts have been retained by CSI.ROL to design, draft, and finalize new course modules for each topic:

- **Forensics:** Professor Ravindra Fernando from University of Colombo, with assistance from Iresha Samaraweera, Attorney at Law
- **Electronic Evidence:** Retired Supreme Court Judge Saleem Marsoof, with assistance from Romali Tudawe
- **Land Partition:** Retired Justice A.W.A. Salam, with assistance from Natasha Ranatunaga, Attorney at Law
- **Case Management:** Retired Justice A.W.A. Salam
- **Family Law:** Retired Justice U.L.A. Majeed.

To ensure that the CSI.ROL-supported modules reflect the latest international standards of judicial education and to review and improve the SLJI CJE program more generally, Mary Fran Edwards was hired to assist in the final design of all modules. She will ensure a standardized approach, content, and presentation. Ms. Edwards met with the module developers in June 2016 and discussed CJE principles and methodologies with the SLJI Director. During Quarter 4, Ms. Edwards continued her assignment by reviewing drafts of each module and suggesting changes.

CSI.ROL is also supporting the development of an online and DVD-based video catalogue of the forensics training module, accessible on the SLJI virtual portal.

C. Court-Annexed Mediation

A further means of improving the efficiency of the courts and reducing case delay is greater use of alternative dispute resolution (ADR). Based on discussions with SLJI Director Fernando,

CSI.ROL retained an international mediation/ADR expert, Lynn Cole, in June to enable the SLJI to introduce judges to ADR principles and the use of mediation. This quarter Ms. Cole reviewed the SLJI-proposed rule changes for court-annexed mediation and composed a memorandum detailing the types of procedural reforms and trainings that will be needed to implement court-annexed mediation in Sri Lanka. She also developed the framework for a pilot mediation project that would demonstrate how mediation can work within the operations of the court. The pilot will also test different methodologies and document successes and failures to streamline a prospective roll out of mediation in the courts. The SLJI has fully endorsed the concept of court-annexed mediation, originally proposed in the CSI.ROL Case Management Assessment, and is now its leading advocate.

COMPONENT 4. ESTABLISHING PARTNERSHIPS FOR THE BAR ASSOCIATION OF SRI LANKA TO INCREASE THE EFFICACY OF THE LEGAL SYSTEM

Component 4 focuses on strengthening the BASL's leadership in promoting evidence-based legal and policy reform, particularly with regard to the promotion of gender equality and the protection of human rights, and revising legislation to meet international obligations and standards.

4.1. THE RESEARCH AND ANALYTICAL CAPACITY OF THE BAR ASSOCIATION OF SRI LANKA IS IMPROVED

The BASL Research Unit, established at the beginning of the project with CSI.ROL support, has initiated new partnership discussions between the BASL and several universities, including the University of Colombo and the University of Jaffna, which will facilitate completing the implementation of the BASL's research agenda for Year 3 of the CSI.ROL program. The BASL Research Unit continued to carry out research this quarter in support of other policy papers, including a policy paper on gender equality in the legal profession, a review on access to justice, entitled, *Legal Aid in Sri Lanka*, and a policy paper on legal education reform. These policy papers will be completed and published in the upcoming months and will form the basis for high-level policy discussions and public forums on each theme, which the BASL will host along with other justice sector leaders.

A. Forums on Legal Reforms

With CSI.ROL support, the BASL has held a series of important and high-visibility public forums and policy discussions this past year. This quarter, the BASL conducted a Forum on Witness and Victim Protection on September 7 in Colombo. Additional policy and legal reform forums conducted with CSI.ROL support this year are listed in the table below.

BASL Policy and Advocacy Events	Date and Location	Male	Female	Total
Public Forum on Environmental Law	June 9, BASL Auditorium, Colombo	64	45	109
National Law Conference	March 19–21, Wadduwa	93	123	216
National Forum on Access to Justice	June 16, Colombo	29	21	50
Global Perspectives on Mediation	June 23, BASL Auditorium, Colombo	14	11	25
Forum on Witness and Victims Protection	September 7, BASL Auditorium, Colombo	66	74	140

Over the remainder of the project, CSI.ROL and the BASL will partner to produce two more series of legal reform discussions.

1. **High-Level Dialogue on Legal Education Reforms:** This dialogue has been proposed by the BASL to address the deterioration of the standards of the legal profession and the perceived growing gap between the capacity of lawyers and the legal needs of the Sri Lankan population and economy. The high-level dialogue will discuss possible reforms

to law school curricula and CLE mechanisms that can enhance capacity, modernize the legal profession, and promote ethics and professionalism.

2. **South Africa Reconciliation Awareness-Raising Events:** The South Africa delegation has proposed conducting four provincial BASL and justice sector stakeholder dialogues on post-conflict reconciliation and access to justice. Accordingly, it has been proposed that sessions should be conducted with the BASL in Colombo and its regional branches, law students of Sri Lanka Law College and the Faculty of Law of the University of Colombo, and judicial officers including judges, as well as a session for young parliamentarians.

B. Publication of Research and Policy Papers

In addition to its case management reform, CSI.ROL support to the BASL also includes building its capacity to produce research and policy papers on important legal topics. The BASL Research Unit is finalizing a policy paper on gender equality in the legal profession that will be published in November 2016 and a policy paper on legal education reform that will be a product of the high-level dialogue scheduled for October 2016.

In addition, the BASL/CSI.ROL-supported National Access to Justice Forum in June 2016 produced a report that identified key issues and proposed recommendations for next steps (the report will be published by the BASL next quarter; see draft report, “*Legal Aid in Sri Lanka*” Attachment D), including the following:

1. Foster acceptance of the concept of legal aid as a right within the discourse around access to justice for all
2. Review and reform the institutional framework on legal aid
3. Capture current data on all legal aid service providers
4. Develop more effective and efficient service provision
5. Identify additional and new approaches to legal aid — including a duty lawyer scheme, mediation and ADR, and a formal paralegal scheme
6. Expand the monitoring of legal aid beyond the institutional level
7. Expand the funding base for legal aid
8. Increase the commitment of private lawyers to providing legal aid
9. Incorporate legal aid in the formal legal education curricula.

C. Refurbishment of BASL Provincial Libraries

CSI.ROL supported the BASL to finalize an assessment of its provincial bar libraries to determine existing resources and needs. Based on the assessment, the BASL began purchasing law books and journals this quarter to upgrade its provincial bar libraries, enabling a substantial improvement in the research capacity of lawyers working outside Colombo. At present, purchase orders have been issued for 440 books and journals; delivery to the BASL is expected by early November.

COMPONENT 5. IMPROVING ACCESS TO LEGAL SERVICES FOR MARGINALIZED COMMUNITIES

Under Component 5, CSIROL works in close coordination with the LAC and local NGOs to improve access to legal services for marginalized communities and populations through the creation and expansion of new legal aid and legal awareness services and through technical and management capacity building. All grantee activities ended last quarter, and the administrative close out of grants was successfully completed this quarter.

5.1. SUB-AWARDS TO THE LAC TO SUPPORT LEGAL AID SERVICES AND PUBLIC AWARENESS CAMPAIGNS

CSIROL supported the LAC through targeted trainings as well as outreach and awareness-raising activities. Through the CSIROL-funded PSU, the LAC expanded its outreach, advocacy, and technical problem-solving capacity, particularly with respect to marginalized populations. The PSU has further helped increase the LAC's operational capacity through legal officer training. This quarter, CSIROL started phasing out direct community-level support in favor of strategic activities such as the land dispute advocacy initiative.

A. Legal English for LAC Lawyers

CSIROL partnered with the LAC and the Open University of Sri Lanka to offer a Legal English course to all LAC lawyers. While lower court proceedings are conducted mainly in Sinhala or Tamil, the Supreme Court and the Court of Appeals function entirely in English. Submissions and pleadings are tendered in English, arguments are made in English, and judgments are delivered in English. More than 90 percent of all law books, cases, legislation, and journals and most internet source materials are available only in English.² As a result, English training will improve access to justice through better legal representation and understanding of English language legal processes by LAC legal officers and lawyers.

English training for 61 LAC legal officers began on December 5, 2015. After completing the foundation level of the English training for LAC legal officers in the first quarter of 2016, the intermediate level classes commenced on May 14, 2016. This course was completed successfully at the end of August 2016.

B. LAC Website Development

With the support of the CSIROL program, the LAC successfully revamped its existing website into a new, more user-friendly version that makes information on the LAC's legal aid services more easily accessible to the public. Lanka Communication Services (PVT) Ltd. designed and developed the website, which was finalized in May. Final improvements to the content were completed in September 2016.

² Until the early 1970s, law was taught entirely in English in Sri Lanka. However, as a result of a policy decision taken by the United Front Government then in power, legal education became available in all three languages.

C. Land Disputes Advocacy Initiative

The LAC PSU identified a range of emerging land issues that were affecting large numbers of community members in various areas of Sri Lanka yet a lack of any systematic compilation of information and no coherent strategy to try and resolve the land problems. CSI.ROL and the PSU designed a land disputes advocacy program to respond to these issues and increase the capacity of LAC officers to support resolution for affected communities. The project decided to focus on the Eastern and Sabaragamuwa provinces, where there were a large number of disputes. Realizing that the issues in each province were emblematic of issues faced by communities around the country and that solutions would require national-level discussion and policy changes, CSI.ROL hired Professor Selvakkumaran, a highly-regarded expert on legal reform in Sri Lanka, to help the LAC and PSU teams produce a critical analysis and conduct a series of provincial and national forums on durable, sustainable solutions to these disputes.

Sabaragamuwa Provincial Forum

The LAC team working on the Sabaragamuwa province land disputes helped resolve a number of disputes by convening discussions among local communities and authorities to discuss the legal principles underlying each dispute and helping identify equitable resolutions (see highlighted success stories).

To address issues that could not be resolved at the local level by the LAC team, a discussion and advocacy forum with provincial authorities and civil society in Sabaragamuwa was conducted on September 15, 2016 at the District Secretariat in Ratnapura. Key institutional stakeholders who participated included: the Additional District Secretary, Ratnapura District; the Provincial Land Commissioner, Sabaragamuwa Province; the District Forest Officer, Ratnapura; the Divisional Secretary, Eheliyagoda; the Assistant Divisional Secretary, Kuruwita; the Chief Valuation Officer, Ratnapura; Land Officer, Ratnapura; Land Officer, Embilipitiya; a Representative from the Mahaweli Authority; Representatives from the Urban Development Authority; a Representative from the Housing Development Authority; Representatives from the Land Reform Commission (LRC) Board, Ratnapura; and Representatives from the LRC Board, Embilipitiya. Representatives from CSOs representing the affected communities also attended.

Success Story — Sabaragamuwa Province

The Sabaragamuwa LAC Land Team identified a group of 100 families in the Eheliyagoda district that have been occupying lands governed by the Land Reform Commission (LRC) for many generations, but with uncertain tenure status due to defective title documents bearing incorrect lot numbers, coordinates, and other measurements. Through field visits and focus group discussions, the LAC team was able to identify causes and successfully organize a mobile legal aid service with the participation of the Director General and local officials of the LRC on August 23, 2016. The mobile clinic helped resolve 80 percent of the administrative issues over the families' land permits by working with each of the different divisions of the LRC.



Sabaragamuwa Provincial Land Disputes Forum, September 15, 2016

The Sabaragamuwa provincial forum focused on discussions of institutional and policy issues that were not easily resolved at the local level. Approximately 3,230 families are affected by these unresolved disputes. Key issues discussed at the forum included:

- **Conflicts over land demarcated as Forest Department land.** According to the District Forest Officer who was present at the forum, the boundaries of most of the lands in dispute are outside of state forest areas, and therefore the Forest Department is willing to divest the lands. However, in order to release from the authority of the Forest Department, two steps should be followed: 1) mapping of the lands to be divested by the Surveyor General's Department and 2) obtaining consent from the Inter-Ministerial Committee in order for the Divisional Secretary to be given the management authority. The District Additional Secretary agreed to raise the issue at the forthcoming District Agricultural Committee meeting and to request mapping by the Survey Department in Ratnapura. The LAC will continue to follow up on progress.
- **The Mahaweli Authority's "special area."** Over 2,500 families have been declared to live in a "special area" under the Mahaweli Authority. Abuses alleged by the community include the levying of exorbitant valuation and taxes on the landholders with no access to title documents. After an open discussion relating to the issue and the hardships faced by the people, the Officer of the Mahaweli Authority and the Chief Valuation Officer agreed that this type of valuation has caused injustice to the people. Compensation for the people and access to title documents will be further discussed at the national level forum with national officials of the Mahaweli Authority.
- **The lack of title documents for the persons living in an area known as Helington Estates,** which is part of an area of state land called Pambegama but under the management of the Balangoda Plantations Ltd. The people living in the area are descended from encroachers on the state land during early '70s, but they have now been living there for generations. During the forum, the Divisional Secretary of the area requested an evaluation to be conducted by the Valuation Department so that the Divisional Secretary could take steps to grant the necessary title documents. The Chief Valuation Officer agreed to complete the valuation and issue the report to the Divisional Secretary in due course.
- **Forced displacement and lack of compensation under the Eheliyagoda town plan.** The forced ousting and non-payment of compensation for 70 families who had their homes destroyed by the implementation of the Eheliyagoda town plan was discussed.

During site visits by the LAC, the Divisional Secretary accepted that what had happened was against the rule of law and the rights of the affected people, but the Divisional Secretary was reluctant to take any action to secure relief for the affected people. The issue was discussed during the provincial forum, and it was agreed that the LAC will present it before the Public Petition Committee to ask for compensation for the families.

Eastern Provincial Forum

The Eastern Provincial Forum was conducted in Trincomalee at the Sarvodaya Training Centre on September 20, 2016. The key participants of this forum included: the Provincial Land Commissioner, Government Agents, the Assistant Provincial Land Commissioner, the Deputy Conservator General of Forests, Divisional Forest Officers, District Land Officers, Surveyor Department Officers, the District Secretary, the Additional District Secretary, Colonization Officers, and other such government officials.

Land issues in the Eastern Provinces often include issues between different racial and religious communities, in addition to the category of issues common in Sabaragmuwa that relate mostly to disputes between citizens and the implementation of government policies. Approximately 3,124 families are affected by these unresolved disputes. Key issues discussed at the forum included:

Success Story — Eastern Province

LAC officers worked with the local Forest Department in Muttur division to explain the plight of farmers that had lost their title documents during displacement from the war. During the provincial forum, the Divisional Forest Officer and Deputy Conservation General of Forest said that if the community can prove their ownership they are ready to consider the matter. The LAC field team provided documentation support to the community by accessing files at the Divisional Secretary and helping to verify and present the documents to the Forest Department. The Forest Department notified the Muttur LAC office that it was withdrawing from the disputed land and removing its demarking stones.

- **The 15th Distribution Channel Issue.** Farmers have been cultivating this land since 1957, and during 1973–1977 some of the farmers received annual permits. From 1984 to 2005 their cultivation was interrupted several times due to the war, and in 2006 they left the land. The Forest Department declared 80 acres as forest and gave permits to private individuals to use the land as a sand yard. Prior farmers don't have any title documents or deeds. When they left, the agricultural land turned to forest, and the Forest Department intervened and took control. At the forum, the relevant Divisional Secretary stated that 40 percent of the people have been identified as valid permit holders and their documents will be processed. This pattern of Forest Department possession of abandoned land has also been seen in other provinces and will be discussed as a policy reform need at the national forum in October.
- **The Soodaikudah Land Issue.** Approximately 160 people are claiming to have resided on this land since the 17th century, including having received grants from the British colonial Government in 1927. They were displaced by the tsunami of 2004 and the war, and when they came back to their land they found the Sri Lanka Navy had established a camp. Even though the Navy released lands in 2015 in response to reconciliation efforts, the local LAC office reports that the police and Grama Niladari have prevented the people from entering the lands to clear and cultivate them. The issue was presented to the

Divisional Secretary at the provincial forum, and the local LAC office will follow up on immediate resolution.

- **The Pulmottai 13th Mile Post Issue.** This issue affects 72 people from a community that has used the land for cultivation since 1969 but left the land due to the war in 1983. In 2013 the Kuchaveli Divisional Secretary granted permission to clear the land, but the Forest Department did not. After discussion at the provincial forum, the Additional District Forest Officer agreed with the LAC officer to release the land to those people who can submit clear title documents. The local LAC office will provide follow-up support to the affected families.
- **The Thenamaravadi Issue.** This dispute centers on two issues relating to Thennamaravadi village, which falls within the Kuchaveli Divisional Secretary's Division. The LAC Officer who conducted the study about the problem states that some people were issued grants during the British rule in the 1890s. After 1984, the villagers left their land due to civil war. After the establishment of the Mahaweli "L" Scheme, many Sinhalese were settled in the nearby village called Sinhapura. The villagers say that when they returned in 2010, their lands had been encroached upon by the Sinhapura farmers and they were prevented from entering into their land. In other cases, the local Forest Department office did not allow these permit holders to enter land that had been claimed as forest land. During discussion at the provincial forum, the representative of the Forest Department said they would release the forest land to those with valid title documents. The local LAC is providing follow-up support. The remaining private land disputes will be discussed at the national forum.
- **The Eravoor Issue.** Land claimants, representing 183 affected Muslim farmers, held valid title documents such as grants, deeds, Land Development Ordinance permits, and annual permits and had been cultivating the land up until 1985 but left due to the war. The claimants then say they were compelled by the Liberation Tigers of Tamil or the LTTE to transfer more than 1,450 acres of the land to Tamils at below market prices in 1990–2004. It was agreed that a policy change is needed to allow for recovery of these lands. This issue will be discussed at the national forum.

National Forum

To continue discussion of many of these disputes and the need for policy and institutional reforms at the national level, CSIROL and the LAC will host a National Land Forum on October 24, 2016. Professor Selvakkumaran, Senior Lecturer and Faculty of Law at the University of Colombo, is composing a policy discussion paper on behalf of the LAC that will be presented at the forum and that will form the basis of subsequent strategic plans for the LAC and other institutional partners.

D. Awareness Program on Legal Issues Related to the Fishing Industry

LAC offices in the coastal belt have identified several legal issues affecting fishing communities such as the lack of understanding and awareness of illegal fishing methods, lack of legal documentation or demarcation for property rights, and issues related to foreign fishing boats invading local fishing areas. To address these issues, CSIROL supported the LAC PSU and local LAC offices to conduct eight mobile clinics and awareness programs for fishing

communities in Negombo, Chilaw, Matara, Hambantota, Trincomalee, Batticaloa, Tangalle, and Balapitiya.

CSI.ROL supported Regional Legal Officers of the LAC to work with resource persons from the Ministry of Fisheries, the Legal Draftsman's Department, the Department of Fisheries, and the District Inspection Office to conduct five sessions this quarter with fishing communities on basic laws related to the fishery industry and the importance of legal documentation.

"I am very grateful for this program since it increased my knowledge and cleared lot of the doubts I had in my mind about the regulations. We face lot of issues due to ignorance and lack of information. I am very happy to get a chance to resolve my legal and documentation issues at the legal aid clinic and talk freely with the lawyers and the senior officials of the Ministry of Fisheries. Please conduct more programs of this nature in all the coastal areas for the whole fisheries community in Sri Lanka"

– Mr. J. Anthony, fisherman - Negombo

"Legal Aid clinic is really worth and helpful. I was able receive legal advice to resolve lot of issues at this program".

– Mr. Fernando, fisherman - Matara

Program	Format	Location	Number of Participants			Date
			Male	Female	Total	
LAC Fisheries Awareness Program 4	Seminar	Batticaloa	13	17	30	Jul 8, 2016
LAC Fisheries Awareness Program 5	Seminar	Chillaw	6	41	47	Jul 23, 2016
LAC Fisheries Awareness Program 6	Seminar	Tangalle	28	12	40	Aug 6, 2016
LAC Fisheries Awareness Program 7	Seminar	Matara	24	22	46	Aug 7, 2016
LAC Fisheries Awareness Program 8	Seminar	Balapitiya	34	14	48	Sep 20, 2016

5.2. SUB-AWARDS TO NGOS TO SUPPORT LEGAL AID SERVICES AND PUBLIC AWARENESS CAMPAIGNS

An important objective of the CSI.ROL program is to expand access to justice by supporting local NGOs that provide legal services to marginalized and vulnerable populations. CSI.ROL supported five NGOs to provide legal aid services and conduct public awareness campaigns: WIN, CWD, LHRD, ADT, and CHANGE. As the CSI.ROL project was originally scheduled to end in September 2016, these grants were closed in the previous quarter.

**ATTACHMENT A. PERFORMANCE INDICATOR
TRACKING TABLE (PITT) — YEAR 3, QUARTER 4
(ATTACHED IN A SEPARATE EXCEL® FILE)**

ATTACHMENT B. SUCCESS STORY: REVERSING INVISIBILITY: LEGAL IDENTITY AND DOCUMENTATION SUPPORT IN SRI LANKA



USAID
FROM THE AMERICAN PEOPLE

SRI LANKA

SUCCESS STORY

Reversing Invisibility: Legal Identity and Documentation Support in Sri Lanka



Ms. Sasikaran lost her birth certificate while displaced due to the conflict. Years later she had no birth certificate or National Identity Card and thus was unable to register her marriage and give her children legal status. USAID support allowed her to recover her birth certificate, register her marriage, and register her children.

For more information contact:
United States Agency for International Development
No. 44, Galle Road, Colombo 3, Sri Lanka
Tel: +94 11 2498000/Fax: +94 11 2472850
Email: infosl@usaid.gov
Website: <http://www.usaid.gov/sri-lanka>
Facebook:
<https://www.facebook.com/Colombo.USBassay>

CONTEXT

The devastating 30-year civil war in Sri Lanka still has pronounced effects on displaced and formerly displaced populations across the island.¹ In large segments of the country where the war was fought and for many affected families, legal documentation and proof of identity, such as birth certificates and Nation Identity Cards, are missing. Without them people are unable to register marriages, document paternity, find employment, send children to school, or receive other public services or assistance. In many communities, land deeds and use permits have also been permanently destroyed and government records are nonexistent, resulting in local disputes, further displacement, and loss of livelihoods. Documentation needs are particularly high in the Northern and Northern Central Province.

Despite the critical importance of these identity documents, the process for proving, registering, and obtaining replacements is exceedingly complex and often requires legal assistance, court proceedings, and/or working knowledge of regional and national government agencies.

PROGRAM IMPACT

To respond to these legal identity needs, USAID's Civil Society Initiatives to Promote the Rule of Law (CSI.ROL) project designed a series of interventions to support local non-governmental organizations (NGOs) and the Legal Aid Commission of Sri Lanka (LAC) to provide the legal assistance necessary to recover lost, damaged, and unregistered documents.

Right to Legal Identity

Many people in Sri Lanka, particularly former internally displaced people (IDPs), had birth certificates destroyed or were born without registration during the conflict. As a result, many are ineligible to vote or receive education, health, and other public services. CSI.ROL supported the LAC to develop

¹ Estimates of the total number of displaced range from 300,000 to 800,000



USAID
FROM THE AMERICAN PEOPLE

SRI LANKA



Ms. Devasagi fled to India at the age of 12 as a refugee escaping the war. She has returned after 30 years with her family. They lacked all forms of legal documentation, including birth certificates and National Identity Cards, and thus were unable to obtain even the most basic services. Through a USAID-supported legal clinic she and her family were able to obtain the required documentation to function as legitimate Sri Lankan citizens.



For more information contact:
USAID

No. 44, Galle Road, Colombo 3, Sri Lanka

Tel: +94 11 2498000/Fax: + 94 11 2472850

Email: infosl@usaid.gov

Website: <http://www.usaid.gov/where-we-work/asia/sri-lanka>

Facebook:

<https://www.facebook.com/Colombo.USEmbassy>

a community awareness program that reached 137 vulnerable communities on the right to legal identity and how to gain access to missing legal documentation. CSI.ROL also provided grants to local NGOs, Alliance Development Trust (ADT) and CHANGE, that extended critical support to IDP returnees in the North through eighteen mobile clinics that registered births and deaths and helped villagers obtain NICs.

In the one year covered by these two grants, over 3,000 beneficiaries received new legal identity documents (2479 birth certificates, 673 NICs; 54% of whom were women).

Legal Status Documentation

In addition to the loss of documents due to displacement, in many parts of Sri Lanka marriage is a cultural tradition with little awareness of the need to register with the government. As a result, many widows and single mothers do not have documentation to prove the legality of their marriage or the paternity of their children, thus depriving them of victim compensation, state support, and inheritance from the father's family. Working with the LAC and the Department of the Registrar General, CSI.ROL has encouraged people to register their marriage through community education campaigns that explain the procedures for registration and increase familiarity with the role and location of the Registrar. CSI.ROL grantee ADT also conducted eight local forums with community leaders and Rural Development Societies on the benefits of marriage registration. Grantee CHANGE has provided legal representation for complex cases, such as changes to marriage certificates.

Land Documents

CSI.ROL also supported recovery of lost or damaged land documents (deeds, titles, and permits) through legal counseling at twelve mobile clinics in rural communities. The clinics also raised awareness about the importance of valid land title documents to land. Through a special program on provincial land disputes with the LAC, CSI.ROL has helped identify and resolve large disputes over land involving returned landowners and local governments. By conducting local discussion groups and advocacy meetings and by obtaining supporting documents such as case records, witness testimony, and letters from state authorities CSI.ROL is helping resolve disputes that affect thousands of villagers.

ATTACHMENT C. SOUTH AFRICAN PROFESSIONAL EXCHANGE BRIEFING BOOK

Pursuing Justice: Lessons from South Africa
South Africa – Sri Lanka Professional Exchange Visit
Cape Town, Pretoria, and Johannesburg, South Africa
August 14-21, 2016



USAID
FROM THE AMERICAN PEOPLE

**"Civil Society Initiatives to
Promote the Rule of Law
in Sri Lanka"**



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Welcome!

Dear Delegation Members,

The Civil Society Initiatives to Promote the Rule of Law (CSI.ROL), funded by USAID, would like to wish you a warm welcome to the professional exchange on access to justice and reconciliation in South Africa.

The joint professional exchange, including your colleagues at the Attorney General's office, the Ministry of Justice, Judiciary and the Bar Association of Sri Lanka (BASL), will cover seven days split between Pretoria, Cape Town and Johannesburg that will allow for meetings with the full complement of current and past actors in access to justice and reconciliation, including South Africa Bar leadership, legal aid organizations, and independent commissions. Many of these individuals and organizations have played important roles in the promotion of the legal profession in South Africa and advocated for justice in the aftermath of Apartheid. This study tour will:

- provide exposure and increase familiarity by the BASL, Ministry of Justice, Attorney General's Office, and the judiciary on the mechanisms used in post-conflict South Africa to address human rights abuses;
- encourage and foster reconciliation;
- and increase access to justice, including through legal services and human rights education.

We are excited to be able to facilitate this study tour and are looking forward to a productive program in the days ahead.

While the cities we will be visiting are generally safe, please keep in mind the following suggestions:

- Do not leave your personal belongings (including purses, wallets, cell phones, etc.) unattended in public spaces, including at restaurants and in hotel lobbies;
- In crowded places, keep your wallet in your front pocket, and keep your purse closed and held in front of you;
- Do not flaunt jewelry or cash in public and try not to carry too much cash;
- If you are out after dark, travel on main streets that are well lit and carry your hotel information with you;
- When in doubt of your destination or safety, take a taxi;
 - In case of emergency, call 10177 from any phone in South Africa.
- Our meetings will take place in heated or air-conditioned buildings, and appropriate business attire is suggested.

Below is our contact information. Please let us know if you need any assistance during your stay.

Tiernan Mennen, Chief of Party, CSI.ROL Project

Cell: +94-7722-46400; Email: Tiernan.mennen@gmail.com

Jennifer Rasmussen, Director, ABA ROLI Asia & the Pacific

Cell: +1-310-442-0092; Email: Jennifer.Rasmussen@americanbar.org

Angel Sharma, Program Officer, ABA ROLI Asia & the Pacific

Cell: +1-202-766-4316; Email: Angel.Sharma@americanbar.org

Participants List:

Judiciary:

- Hon. M.D.S.Abeyratne (Judge of the Civil Appeal High Court/ Kandy)
- Hon. A.Premashankar (Judge of the High Court/ Trincomalee)

Ministry of Justice:

- Hon. Wijeyadasa Rajapakse, Minister, Ministry of Justice
- Padmasiri Jayamanna, Secretary, Ministry of Justice
- Mr. S.P.K Ekarathne, Senior Consultant to the Ministry of Justice

Attorney General's Office:

- Hon. Attorney General, Jayantha Jayasuriya
- Senior Deputy Solicitor General, P.I.S. Demuni de Silva

Bar Association of Sri Lanka:

- Geoffrey Alagaratnam, BASL President
- Ruchira Gunasekara, Member, Executive Committee, BASL
- Praboda Ratnawardena (Kegalle Bar), Chairman, Law and Law Development Committee of the BASL
- K.S. Ratnawel, Member, Bar Council
- Nayomi Wickramaratne, BASL Program Manager

CSI.ROL/ABA-ROLI:

- Tiernan Mennen, Chief of Party, CSI.ROL Project
- Vasana Wickremasena, Senior Legal Advisor, CSI.ROL Project
- Jennifer Rasmussen, Director, Asia Division, ABA ROLI
- Angel Sharma, Program Officer, Asia Division, ABA ROLI

Travel Schedule

Itinerary

Study tour participants from Sri Lanka will travel to South Africa as follows:

Colombo, Sri Lanka → Johannesburg, South Africa

Saturday, August 13, 2016

Qatar Airways Flight QR 657
Departing Colombo at **9:20 p.m.**
Arriving in Doha at **11:35 p.m.**

Sunday, August 14, 2016

Qatar Airways Flight QR 1363
Departing Doha at **2:40 a.m.**
Arriving in Johannesburg at **9:50 a.m.**

With the exception of Hon. Wijeyadasa Rajapakse, Minister, Ministry of Justice Padmasiri Jayamanna, Secretary, Ministry of Justice, Mr. S.P.K Ekarathne and Mr. Alagaratnam, who have the following itinerary:

Tuesday, August 16, 2016

Qatar Airways Flight QR 669
Departing Colombo at **3:25 am**
Arriving in Doha at **5:40 am**

Qatar Airways Flight QR 1367
Departing Doha at **7:10 am**
Arriving in Johannesburg at **2:40 pm**

Johannesburg, South Africa → Cape Town, South Africa

Wednesday, August 17, 2016

South African Airways SA349
Departing Johannesburg at **3:50 p.m.**
Arriving in Cape Town at **6:00 p.m.**

Cape Town, South Africa → Colombo, Sri Lanka

Sunday, August 21, 2016

Qatar Airways 1370
Departing Cape Town at **1:20 p.m.**

Arriving in Doha at **11:50 p.m.**

Monday, August 22, 2016

Qatar Airways 664

Departing Qatar at **2:15 a.m.**

Arriving in Colombo at **9:35 a.m.**

Facts Sheet:

Background: Dutch traders landed at the southern tip of modern day South Africa in 1652 and established a stopover point on the spice route between the Netherlands and the Far East, founding the city of Cape Town. After the British seized the Cape of Good Hope area in 1806, many of the Dutch settlers (Afrikaners, called "Boers" (farmers) by the British) trekked north to found their own republics in lands taken from the indigenous black inhabitants. The discovery of diamonds (1867) and gold (1886) spurred wealth and immigration and intensified the subjugation of the native inhabitants. The Afrikaners resisted British encroachments but were defeated in the Second South African War (1899-1902); however, the British and the Afrikaners, ruled together beginning in 1910 under the Union of South Africa, which became a republic in 1961 after a whites-only referendum. In 1948, the Afrikaner-dominated National Party was voted into power and instituted a policy of apartheid - the separate development of the races - which favored the white minority at the expense of the black majority. The African National Congress (ANC) led the opposition to apartheid and many top ANC leaders, such as Nelson MANDELA, spent decades in South Africa's prisons. Internal protests and insurgency, as well as boycotts by some Western nations and institutions, led to the regime's eventual willingness to negotiate a peaceful transition to majority rule. The first multi-racial elections in 1994 following the end of apartheid ushered in majority rule under an ANC-led government. South Africa has since struggled to address apartheid-era imbalances in decent housing, education, and health care. ANC infighting came to a head in 2008 when President Thabo MBEKI was recalled by Parliament, and Deputy President Kgalema MOTLANTHE, succeeded him as interim president. Jacob ZUMA became president after the ANC won general elections in 2009; he was re-elected in 2014.

Capital: Cape Town, as the seat of Parliament, is the legislative capital; Pretoria, as the seat of the President and Cabinet, is the administrative capital; and Bloemfontein, as the seat of the Supreme Court of Appeal, is the judicial capital, while the Constitutional Court of South Africa sits in Johannesburg.

Legal system: Mixed legal system of Roman-Dutch civil law, English common law, and customary law

Currency: Rand (R)

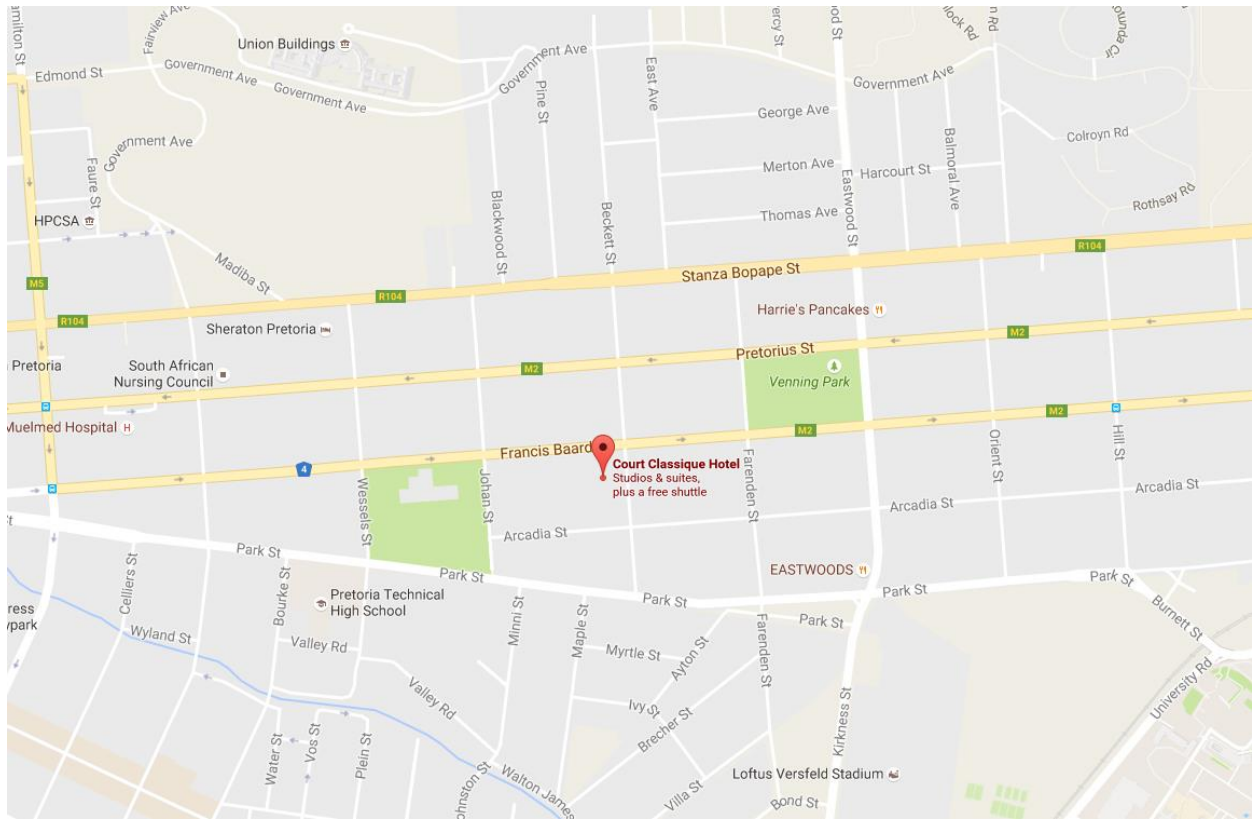
Pretoria Weather:



Cape Town Weather:



Map of Pretoria



Hotel Information:

Court Classique Hotel – Pretoria

Cnr Francis Baard & Beckett Streets

Arcadia, Pretoria, 0083, South Africa

+27 12 344 4420

*Please bring cash for incidentals deposit

Nearest ATMs:

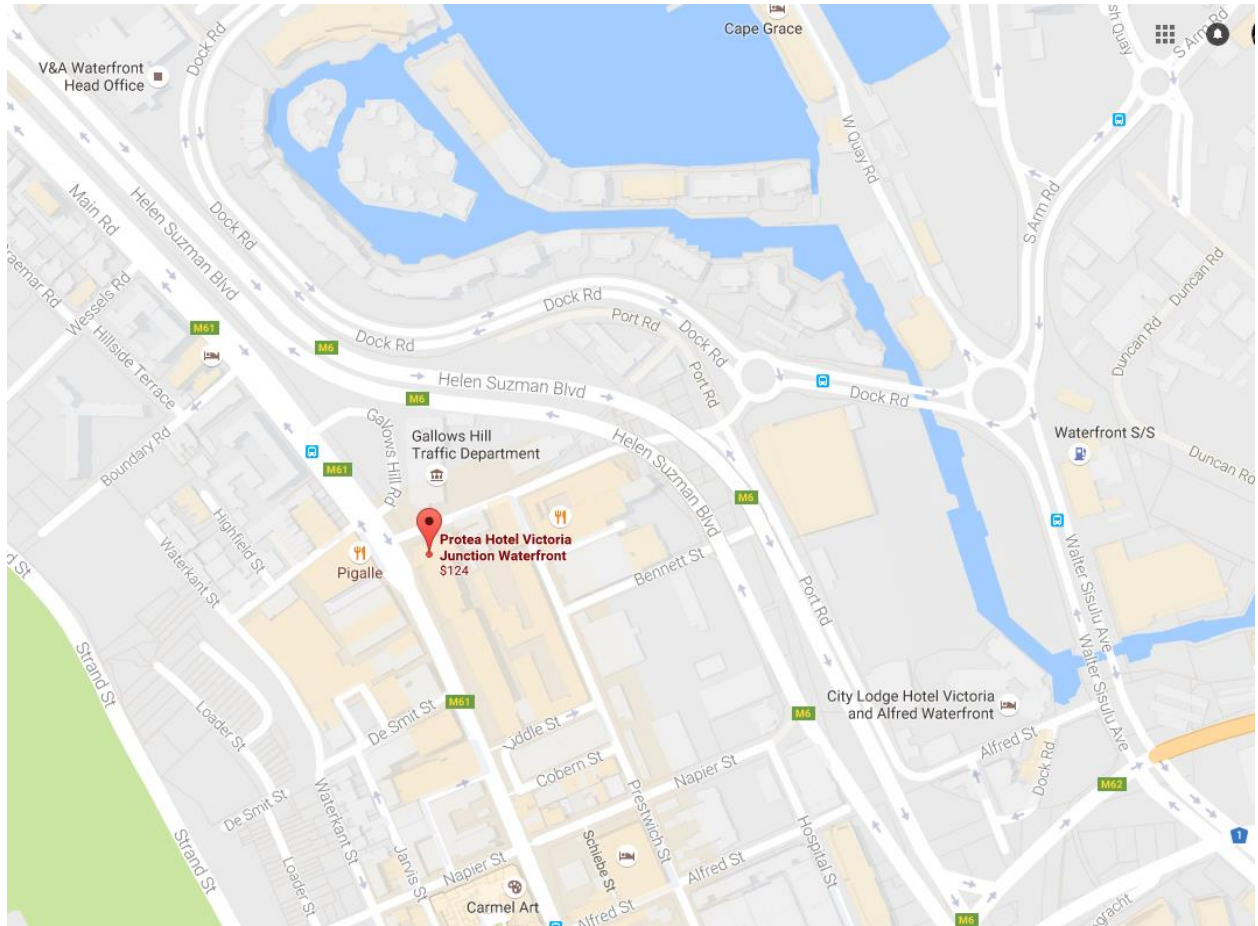
FNB - ATM - 31 Malan St

31 Malan St, Pretoria, South Africa

Nedbank ATM (Bloed Street)

Lilian Ngoyi St, Pretoria, South Africa

Map of Cape Town



Hotel Information:

Protea Hotel Victoria Junction Waterfront – Cape Town

Somerset Rd & Ebenezer Road, Green Point

Cape Town, 8002, South Africa

+27 21 418 1234

*Please bring cash for incidentals deposit

Nearest ATMs:

FNB

35 Somerset Rd, Cape Town, 8001, South Africa

Standard Bank

Cape Quarter, 72 Waterkant St, Cape Town, South Africa

August 14 – August 21, 2016

Study Tour Calendar

Sunday, August 14

9:50 am	Arrive in Johannesburg and head to Court Classique Pretoria <i>Location: Cnr Francis Baard & Beckett Streets, Arcadia, Pretoria</i>
5:30 pm – 5:45 pm	Meet in the hotel lobby for welcome dinner
6:00 pm – 8:00 pm	Welcome dinner for delegation Location: TBD Orientation and overview of study tour goals and agenda

Monday, August 15

8:00 am – 9:00 am	Law and Society South Africa Meeting <i>Location: Court Classique</i>
9:00 am – 10:00 am	Depart for meeting with Department of Justice and Constitutional Development
10:00 am – 12:00 pm	Meeting with Deputy Minister John Jeffery Department of Justice and Constitutional Development <i>Location: 316 Thabo Sehume Street, Pretoria, Room 2608 (Deputy President's Boardroom)</i> <i>Parking arrangements will be arranged with Mandla Ngwenya 012-406 4854</i>
12:00 pm – 1:00 pm	Lunch
1:00 pm – 3:00 pm	Apartheid Museum, Johannesburg
3:30 pm – 6:00 pm	South Africa Constitutional Court <i>Location: Johannesburg/Constitution Hill, 1 Hospital St, 2017, South Africa</i>
6:00 pm	Depart for hotel
7:00 pm	Dinner at La Pentola Restaurant in Pretoria <i>Location: 5 Wells Street, Pretoria, 0084, South Africa</i>

Organizations and Individuals:

The Department of Justice and Constitutional Development's mandate from the Constitution provides a framework for the effective and efficient administration of justice and to promote constitutional development through the development and implementation of legislation and programs that seek to advance and sustain constitutionalism and the rule of law. At the same time, the department also seeks to provide an enabling environment for the judiciary and constitutional institutions to exercise their constitutional powers and functions freely and independently. The core functions of the Department are ensuring equitable access to justice services; protecting and promoting the rights of children, women, the aged and people with (physical and mental) disabilities; improving the efficiency of the courts; developing legislation and promoting the Constitution; administering deceased and insolvent estates and the Guardian's Fund; providing prosecution and legal aid services, providing legal advisory services and protecting the organs of the state from damaging litigation.

Deputy Minister John Jeffery is South Africa's Deputy Minister of Justice and Constitutional Development. Mr Jeffery is an admitted attorney and holds BA and LLB degrees, as well as a postgraduate diploma in environmental law from the University of Natal. He is a member of the ruling party, the African National Congress. Mr Jeffery has been a member of the National Assembly of Parliament since 1999. He is a former member of the Justice and Constitutional Development Portfolio Committee where he was instrumental in shaping a number of pieces of legislation, such as the Child

Justice Act, the Prevention and Combating of Trafficking in Persons Act, the Protection from Harassment Act, the Superior Courts Act, the Protection of Personal Information Act and the Legal Practice Act. He served as Parliamentary Counsellor to the President and the Deputy President from 1999 – July 2013. Mr Jeffery was appointed as the Deputy Minister of Justice and Constitutional Development in July 2013. His constituency is in KwaZulu-Natal.

The **Law Society of South Africa** speaks nationally on behalf of the attorneys' profession and represents the attorneys' profession by bringing together its six constituent members in a national, non-statutory body. LSSA also provides leadership and support to the profession through policy development and stakeholder relations, publishes De Rebus, the SA attorneys journal in print and digital format, which circulates to all attorneys, and judges as well as subscribers in print and digital format, as well as an app, interrogates and makes input on policy and draft legislation in the public interest, provides vocational training to over 1 400 candidate attorneys a year, is accredited as the premier provider of other practical legal training courses (PLT) for candidate attorneys in terms of the Attorneys Act, 1979, is accredited as the premier provider of subsidised Practice Management Training (PMT) for mandatory practice management in terms of the Judicial Matters Second Amendment Act, 2003, maintains standards by setting examination papers for the Attorneys Admission, Conveyancing and Notarial professional examinations for attorneys; and maintains a national database on statistics and trends in the attorneys' profession.

The **Constitutional Court of South Africa** is a supreme constitutional court established by the Constitution of South Africa. It was originally the final appellate court for constitutional matters. Since the enactment of the Superior Courts Act in 2013, the Constitutional Court has jurisdiction to hear any matter if it is in the interests of justice for it to do so. The court was first established by the Interim Constitution of 1993, and its first session began in February 1995. It has continued in existence under the Constitution of 1996. The Constitutional Court consists of eleven judges who are appointed by the President of South Africa from a list drawn up by the Judicial Service Commission. The judges serve for a term of twelve years. The court is headed by the Chief Justice of South Africa and the Deputy Chief Justice. The Constitution requires that a matter before the Court be heard by at least eight judges. In practice, all eleven judges hear almost every case. Decisions are reached by a majority and written reasons are given.

Tuesday, August 16

8:00 am – 9:00 am	Debrief of prior day's meetings and overview of day's schedule
9:00 am – 9:45 am	Depart for meeting with Howard Varney , formerly ICTJ
10:00 am – 12:00 pm	Meeting with Howard Varney <i>Location: The Maisels Group, 2nd Floor, Maisels Chambers, 4 Protea Place, Sandton 2196</i>
12:00 pm – 1:30 pm	Lunch at Grand Central Café at Melrose Arch <i>Location: HL20 & HL21, Melrose Arch, The Piazza, Melrose Arch, 38 Whiteley Rd, Melrose North, Johannesburg, 2076, South Africa</i>
1:30 – 1:45 pm	Depart for meeting with Judge Richard Goldstone
2:00 pm – 4:00 pm	Meeting with Judge Richard Goldstone <i>Location: Howard Varney's Office in Sandton, The Maisels Group, 2nd Floor, Maisels Chambers, 4 Protea Place, Sandton 2196</i>
4:00 pm – 6:00 pm	Meeting with Legal Aid South Africa with Judge President Mlambo
6:00 pm	Depart for dinner with Sri Lankan High Commission
7:00 pm	Dinner with Sri Lankan High Commission <i>Location: 512, Ruth Street, Pretoria, 0181</i>

Organizations and Individuals:

Howard Varney is a senior program adviser with ICTJ. His areas of expertise include truth-seeking, national prosecutions, institutional reform, reparations, and public interest litigation. Howard is a practicing advocate at the Johannesburg Bar. His legal practice includes human rights, constitutional, and administrative law. Howard has a B.A. LL.B. from Natal University and an LL.M. from Columbia Law School. He has published on national criminal justice issues, amnesty, commissions of inquiry, the relationship between war crime tribunals and truth commissions, community security, and small arms control.

Judge Richard Goldstone is a former Judge of the Constitutional Court of South Africa. From 1991 - 1994, he served as Chairperson of the Commission of Inquiry regarding Public Violence and Intimidation that came to be known as the Goldstone Commission. He was the Chairperson of the Standing Advisory Committee of Company Law from 1984 to 2004. From 15 August 1994 to September 1996 he served as the Chief Prosecutor of the United Nations International Criminal Tribunals for the former Yugoslavia and Rwanda. During 1998 he was the chairperson of a high level group of international experts that met in Valencia, Spain, and drafted a Declaration of Human Duties and Responsibilities for the Director General of UNESCO (the Valencia Declaration). From August 1999 until December 2001 he was the chairperson of the International Independent Inquiry on Kosovo. In December 2001 he was appointed as the co-chairperson of the International Task Force on Terrorism which was established by the International Bar Association. From 1999 to 2003 he served as a member of the International Group of

Advisers of the International Committee of the Red Cross. From 1985 to 2000, Justice Goldstone was National President of the National Institute of Crime Prevention and the Rehabilitation of Offenders (NICRO).

Legal Aid South Africa's role is to provide legal aid to those who cannot afford their own legal representation. This includes poor people and vulnerable groups such as women, children and the rural poor. It does this in an independent and unbiased manner with the intention of enhancing justice and public confidence in the law and administration of justice.

Judge President Mlambo is Judge President of the Gauteng Division of the High Court of South Africa as well as the Chairperson of Legal Aid South Africa.

Wednesday, August 17

8:00 am – 9:00 am	Overview of schedule
9:00 am – 10:00 am	Depart for meeting with National Prosecuting Authority
10:00 am – 12:00 pm	<p>Meeting with National Prosecuting Authority</p> <p><i>Location: 123 Westlake St, Silverton, 0184, South Africa</i></p> <ul style="list-style-type: none">• Adv Shaun Abrahams (National Director of Public Prosecutions)• Dr Silas Ramaite SC (Deputy National Director of Public Prosecutions)• Adv Nomgcobo Jiba (Deputy National Director of Public Prosecutions)• Dr Torie Pretorius (Acting Special Director & Head of the Priority Crimes Litigation Unit)• Ms Madeleine M. Fullard (Head of the Missing Persons Task Team)
12:00 pm – 1:00 pm	<p>Lunch (free at Hotel)</p> <p><i>Pretoria</i></p>
1:00	<i>Depart for Airport</i>
3:50pm – 6:00pm	Fly to Cape Town
7:00 pm	<p>Check-in to Protea Hotel at Victoria Junction Waterfront in Cape Town</p> <p><i>Location: Somerset Rd & Ebenezer Road, Green Point, Cape Town</i></p> <p>Dinner (Free - at Hotel or nearby)</p>

Organizations and Individuals:

The **National Prosecuting Authority** holds the power to institute criminal proceedings on behalf of the State, to carry out any necessary functions incidental to institution of criminal proceedings and to discontinue criminal proceedings. The NPA is accountable to Parliament, while the final responsibility over the prosecuting authority lies with the Minister of Justice.

Thursday, August 18

8:00 am – 9:00 am	Overview of schedule
9:00 am – 10:00 am	Depart for meeting with Albie Sachs
10:00 am – 12:00 pm	Meeting with Judge Albie Sachs <i>Location: Bungalow 34, iPhengwini Path, Third Beach, Clifton</i>
12:00 pm – 12:45	Depart for Lunch meeting with Human Rights Media Centre
1:00 pm – 3:30 pm	Lunch meeting with Human Rights Media Centre <i>Location: 2 Haven House, 2 Mains Ave, Kenilworth, 7780 Cape Town, South Africa</i>
3:30 pm – 4:00 pm	Depart for meeting with Black Sash and Mary Burton
4:00 pm – 5:00 pm	Meeting with Black Sash <i>Location: 3 Caledonian Street, Elta House Mowbray Cape Town</i>
5:00 pm – 6:00 pm	Meeting with Mary Burton <i>Location: Black Sash Office</i>
6:00 pm	Depart for hotel
7:00 pm	Dinner with Black Sash (Beluga Restaurant, Cape Town)

Organizations and Individuals:

Judge Albie Sachs, as a member of the Constitutional Committee and the National Executive Committee (NEC) of the ANC, played an active role in the negotiations which led to South Africa becoming a constitutional democracy. After the first democratic election in 1994, he was appointed by then President Nelson Mandela to serve on the newly established Constitutional Court. As a constitutional court judge, Justice Sachs was the chief architect of the post-apartheid constitution of 1996. As one of 11 green-robed judges, he participated in landmark rulings. These rulings included declaring capital punishment a violation of the right to life, to making it unconstitutional to prevent gay and lesbian people from marrying. The court also backed Aids campaigners in 2002, by insisting that the government had a duty to provide HIV-positive pregnant women with drugs to reduce the risk of transmission to their newborn babies.

The **Human Rights Media Center** is a not-for-profit organization that aims to promote an awareness and activism about human rights through various narrative history projects, related media and educational material and social interventions.

The **Black Sash** is a 59 year old veteran human rights organization whose current programs draw on a rich institutional heritage of advocating for social justice in South Africa. In addition, the Black Sash has

engaged in ongoing advocacy for the civil society to effectively engage corruption undermining the public and private sectors, for the reform of competition legislation to ensure more accountability companies implicated in collusion, particularly with respect to basic food and services.

Mary Burton is a Co-Founder of the Home for All campaign. She has been a member of the Black Sash since 1963 and was a Commissioner for the Human Rights Committee of the Truth and Reconciliation Committee. She is a Patron of the Civil Rights League of the African national Congress.

Friday, August 19

8:00 am – 9:00 am	Overview of schedule
9:00 am – 10:00 am	Depart for meeting with Centre for the Study of Violence and Reconciliation
10:00 am – 11:30 pm	Meeting with Hugo van der Merwe, Centre for the Study of Violence and Reconciliation <i>Location: 501 Premier Centre, 451 Main Rd, Observatory 7925, Cape Town, South Africa</i>
11:30 pm – 12:00 pm	Depart for meeting with Institute for Justice and Reconciliation
12:00 pm – 1:15 pm	Lunch meeting with Stanley Henkeman of the Institute for Justice and Reconciliation <i>Location: 105 Hatfield Street, Gardens, Cape Town</i>
1:15 pm – 2:00 pm	Depart for meeting with Dullah Omar Law Center
2:00 pm – 3:30 pm	Meeting with Dullah Omar Law Center <i>Location: Modderdam Rd, Belrail, Transnet, Cape Town, 7530, South Africa</i>
3:30 pm – 4:00 pm	Depart for meeting with LRC
4:00pm – 6:00pm	Meeting with the Legal Resource Center <i>Location: 3rd floor Greenmarket Place, 54 Shortmarket street, Cape Town</i>
6:00 pm	Depart for hotel
6:30 pm	Dinner at Pigalle Restaurant, Cape Town

The Center for the Study of Violence and Reconciliation's mission is to understand and prevent violence, heal its effects and build sustainable peace at community, national and regional levels.

Hugo van der Merwe is the Head of Research at the Centre for the Study of Violence and Reconciliation in South Africa. He has developed and managed numerous research projects evaluating the work and impact of the Truth and Reconciliation Commission (TRC) and managed various research, advocacy and intervention projects relating to transitional justice in South Africa and the African continent.

The Institute for Justice and Reconciliation (IJR) was launched in the year 2000, in the aftermath of South Africa's Truth and Reconciliation Commission. The aim was to ensure that lessons learnt from South Africa's transition from apartheid to democracy were taken into account as the nation moved ahead. Today, the Institute helps to build fair, democratic and inclusive societies in Africa through carefully selected engagements and interventions.

Stanley Henekman is the Executive Director of the Institute for Justice and Reconciliation (IJR) in Cape Town. He is the former HOD for the Building an Inclusive Society Programme at IJR.

The Dullah Omar Law Center was borne out of the struggle against apartheid. It opened its doors in 1990 and Adv Dullah Omar, a human rights lawyer, was its first director. The Centre played a major role in the negotiations towards a democratic South Africa.

The **Legal Resources Centre (LRC)** is South Africa's largest public interest, human rights law clinic. Established in 1979, they use the law as an instrument of justice for the vulnerable and marginalized, including poor, homeless and landless people. The LRC has four offices in Cape Town, Durban, Grahamstown and Johannesburg.

Saturday, August 20

9:00 am – 10:15 am	Breakfast and Evaluations
10:30 am	Depart for Nelson Mandela Gateway to Robben Island
11:00 am – 1:00 pm	Robben Island Tour
1:00 pm – 3:00 pm	Lunch (free)
Afternoon	Free
6:00 pm	Study Tour Closing and Dinner at Gold Restaurant, Cape Town

Activities:

District 6 Museum is a museum in the former inner-city residential area, District Six, in Cape Town, South Africa. During apartheid, the vibrant community of District Six was forcibly relocated from the city when the area was sadly declared a “white group area” by the National Party government. Once removed, all the houses and businesses were demolished, with only religious buildings saved from the destruction. Now, the District Six Museum serves as a way to rebuild the memories and cultural heritage of this historic area.

Robben Island - Nobel Laureate and former President of South Africa Nelson Mandela was imprisoned there for 18 of the 27 years he served behind bars before the fall of apartheid. To date, three of the former inmates of Robben Island have gone on to become President of South Africa: Nelson Mandela, Kgalema Motlanthe,[3] and current President Jacob Zuma.

Participant Bios

Wijeyadasa Rajapakse, Minister

Ministry of Justice of the Democratic Socialist Republic of Sri Lanka

Mr. Rajapakse is the Minister of Justice, Buddha Sasana and a Member of Parliament for the Colombo District. Rajapakse had served as Minister of State Banking Development from 2005 to 2006. He was the Prime Minister's nominee for the Constitutional Council. He commenced his career as a Banker and resigned after a period of 5 years to enter the legal profession. He holds a degree of Law from the University of Colombo and has been practicing in the field of law since 1984. He won the award of the Outstanding Young Person (TOYP) in the field of legal affairs in 1998 and was appointed as a President's Counsel in 2001. He had been an examiner in the Faculty of Law, University of Colombo.

In May 2004 he was appointed as a Member of Parliament to represent the ruling Party, Sri Lanka Freedom Party (SLFP) and was offered the Ministry of Constitutional Affairs which was refused by him. Later he continued as the only Member of Parliament on the government side, without holding any portfolio. Following the 2005 presidential elections, President Mahinda Rajapaksa appointed him the Minister of State Banking Development in November 2005, but he resigned in April 2006 on a matter of policy. He also resigned from the post of the SLFP Organizer of the Maharagama electorate. Then he was elected the Chairman of COPE in July 2006 and presented the first report in January 2007, which led to serious controversies both local and overseas. He was recognized as a crusader who fought against corruption in the public sector, regardless of stature and the might of the politicians and the officials involved in such corruption. His dedication to combat corruption and establish good governance was highly recognized by all patriotic segments in the country, and he was bestowed with the most prestigious award titled Sri Lankan of the year 2007 by LMD media services.

In 2010, he was elected to Parliament from the Colombo District. In 2012, he was elected President of the Bar Association of Sri Lanka. During his tenure he led the Bar Association in support of former Chief Justice Shirani Bandaranayake during her impeachment. Following the 2015 presidential election he was appointed Minister of Justice.

Jayantha Jayasuriya, President's Counsel

Attorney General of the Democratic Socialist Republic of Sri Lanka

Mr. Jayasuriya counts 33 years of service in the Attorney General's Department having joined the Department in 1983 as a State Counsel. He was promoted as Senior State Counsel in 1996, Deputy Solicitor General in 2004, Additional Solicitor General in 2011 and appointed as Senior Additional Solicitor General in 2014. He was appointed as President Counsel in March 2012.

Mr. Jayasuriya worked for the United Nations as a Trial Attorney in two War Crimes Tribunals, i.e. United Nations International Criminal Tribunal for Rwanda and United Nations International Criminal Tribunal for former Yugoslavia. He was awarded as the "Prosecutor of the Year – 2012" award by the International Association of Prosecutors.

Whilst serving at the Attorney General's Department, Mr. Jayasuriya assisted the Presidential Commission of Inquiry in relation to the activities of Non-Governmental Organizations and the Special Presidential Commission of Inquiry in relation to the Malpractices and Corruption in State Institutions. Mr. Jayasuriya served as a Board Member of the Sri Lanka Child Protection Authority and a Member of the Sri Lankan Delegation to the International Cooperation Review Group of FATF Face to Face Meeting. He also has functioned as Legal Consultant to the Financial Intelligence Unit of the Central Bank.

Padmasiri Jayamanna
Secretary, Ministry of Justice of the Democratic Socialist Republic of Sri Lanka

Mr. Jayamanna is the first non-lawyer to be appointed as the Secretary of the Ministry of Justice in many decades. Before his appointment, he served as the Secretary to the Ministry of Private Transport Services. He has also served as the Senior Assistant Secretary of the Justice and Law Reforms Ministry and Additional Secretary at the Ministry of Defense. Mr. Jayamanna represents Sri Lanka Administrative Service.

Mr. S.P.K Ekarathne
Senior Consultant, Ministry of Justice of the Democratic Socialist Republic of Sri Lanka

Mr. Ekarathne has over 40 years of experience in the legal profession in Sri Lanka and is presently a consultant to the Minister of Justice. He has been a former Additional Secretary to the Ministry from 2006-2014. Prior to his duties at the Ministry of Justice, he was a judicial officer from the 1983 first as a Magistrate, District Judge and finally as the High Court Judge of the Colombo. He is also a lifetime member of the Bar Association of Sri Lanka. Apart from this he has also lectured on various fields of law at the Colombo University, University of Jayawardenapura, Kothalawala Defence Academy and Sri Lanka Law College.

Ms. Indika Demuni de Silva
Senior Deputy Solicitor General, Attorney General's Department

Ms. De Silva is a very senior officer of the Attorney General's Department. She has a Masters in Law on International Business Law from the University of London. She has served as an Attorney-at-Law since 1988.

Ms. M.D.S. Abeyratne
Judge of the Civil Appeal High Court – Kandy

Ms. Abeyratne has over 25-year career serving in the judiciary. She was appointed as a magistrate in 1991 and promoted as a High Court Judge in 2010. Prior to her appointment to the judiciary, she served as an attorney-at-law for almost a decade. She has experience on judicial reform and excellence in Singapore and has trained on Judicial Ethics and Case Management from Judicial and Legal Training Institute of Malaysia.

A. Premashankar
Judge of the High Court – Trincomalee

Mr. Premashankar is a senior judicial officer of the Judiciary of Sri Lanka. He presently serves as the High Court Judge of Trincomalee.

Geoffrey Alagaratnam, President's Counsel
President, Bar Association of Sri Lanka

Mr. Alagaratnam has played a key role in transforming the justice sector and the legal professional of Sri Lanka from its darkest period of history to the period of good governance. He has strongly protested the unlawful removal of then Chief Justice Dr. Shirani Bandaranayake and advocated her reinstatement. Mr. Alagaratnam is a former lecturer and Honors Graduate of the Faculty of Law of the University of

Colombo. He was appointed as a President's Counsel in 2005 and headed the Alumni Association of the Faculty of Law of the University of Colombo during 2010-2012.

Nayomi Wickramaratne

Program Manager, Bar Association of Sri Lanka

Ms. Wickramaratne is the Program Manager for the BASL Program Committee. She works with BASL members to coordinate and oversee BASL public programs, trainings and other events.

Probodha Ratnawardena

Attorney-at-Law/ Senior Member of the Bar Association of Sri Lanka

Mr. Ratnawardena is the Convener of the BASL Committee to Propose Constitutional Reforms on the Judiciary. He is also a member of the BASL Committee to Propose Amendments to the Partition Law and Civil Procedure Code. He is a member of the Executive Committee of the BASL and Zonal Vice President of the Kegalle Zone of the BASL. He possesses a Bachelors and Masters in Law from the University of Colombo.

Ratnavale K.S.

Attorney-at-Law/ Senior Member of the Bar Association of Sri Lanka

Mr. Ratnavale is a senior legal practitioner appearing in numerous civil, criminal, labor and human rights cases in original and appellate courts since 1979. He was the President of the Colombo Law Society in 2006/2006 and served in the Executive Committee of the BASL during 2005/2006 and 2012/2013. He is also a Director of Centre for Human Rights Development and a member of South Asians for Human Rights.

Ms. Ruchira Sugathy Gunasekera

Attorney-at-Law / Senior Member of the Bar Association of Sri Lanka

Ms. Gunasekera is a member of the Executive Committee of the BASL for the year 2016/17. She is also the Convener of the Standing Committee of the Junior Bar and Chairperson of the Committee of the BASL at the Organization of Professional Associations (OPA) of Sri Lanka. Ms. Gunasekera is also the Editor and the Member of the Executive Committee of the Colombo Law Society and specializes in supporting migrant workers' rights. She has a Bachelor of Laws from the Open University of Sri Lanka.

CSI.ROL Staff Accompanying the Participants

Tiernan Mennen, Chief of Party, CSI.ROL Project

Vasana Wickremansa, Senior Legal Advisor, CSI.ROL Project

Jennifer Rasmussen, Director, Asia Division (ABA ROLI)

Angel Sharma, Program Officer, Asia Division (ABA ROLI)

ATTACHMENT D. REPORT: LEGAL AID IN SRI LANKA, THE PAST AND THE PRESENT, CHALLENGES AND POSSIBILITIES

LEGAL AID IN SRI LANKA

THE PAST AND THE PRESENT, CHALLENGES AND POSSIBILITIES

A Report by Ramani Jayasundere for the Legal Aid Commission of Sri Lanka,
Presented at the Bar Association of Sri Lanka's National Forum on Access to
Justice, June 2016.

By Ramani Jayasundere¹

June 2016

¹ PhD (University of Colombo) and Attorney at Law. Primary Author of **The Legal Aid Sector in Sri Lanka: Searching for Sustainable Solutions** (2009), a joint publication of The Asia Foundation, Ministry of Justice and Law Reforms, Ministry Constitutional Affairs and National Integration, United Nations Development Programme's Equal Access to Justice Project, and United Nations High Commission for Refugees. Sri Lanka.

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ACRONYMS

ADR	Alternative Dispute Resolution
BASL	Bar Association of Sri Lanka
CLAO	Consortium of Legal Aid Organizations
CSI.ROL	Civil Society Initiatives to Promote the Rule of Law
CSO	Civil Society Organization
ICCPR	International Covenant on Civil and Political Rights
LAC	Legal Aid Commission
MOJ	Ministry of Justice
NGO	Non-Governmental Organization
UN	United Nations
UNDP	United Nations Development Program
UNHCR	United Nations High Commission on Refugees
USAID	United States Agency for International Development

INTRODUCTION

Sri Lanka has a rich history of providing access to justice for marginalized and vulnerable populations through the provision of legal aid. This commitment can be seen in its broad array of government and non-government aid providers, its participation in international covenants that guarantee equal treatment under the law, and in its current efforts to develop a comprehensive national strategy to improve the quality and accessibility of justice for all its people.

At issue then is the challenge of fulfilling the promise and commitment to provide legal aid to all Sri Lankans regardless of gender, socio-economic status and ethnicity. Donor support has been crucial, particularly following the civil war and the tsunami that devastated parts of Sri Lanka, but such support is not a sustainable solution. Finding mechanisms for sustainable and systematic delivery of legal aid has been the subject of several reports and national forums in recent years. Many of the recommendations and conclusions from these reports and meetings are discussed in this paper.

Legal aid in Sri Lanka is primarily the responsibility of the government through the government-supported but independently run Legal Aid Commission (LAC), which has offices at the district level throughout the country. There are also a large number of non-governmental organizations (NGOs) providing legal aid for diverse segments of the population including in long neglected post-conflict areas. These are mostly donor funded. More recently, civil society organizations (CSOs) such as the Bar Association of Sri Lanka (BASL) and the Legal Aid Unit of the Law Faculty of the University of Colombo have begun programs to improve the quality and reach of legal assistance to underserved groups. In recent years, in response to the pro-justice administration of President Maithripala Sirisena, a more concerted effort has been made on the part of key justice sector stakeholders to raise awareness of and provide recommendations for strengthening national policies that will ensure equal access to justice for all Sri Lankans.

This report on the status of legal aid in Sri Lanka is part of that concerted effort. It was first presented for discussion at the National Forum on Access to Justice organized by the BASL in Colombo on June 16, 2016. The recommendations and conclusions that emerged from the forum are also discussed in this report.

The first part of this report discusses the findings of the still highly relevant 2009 report by the Asia Foundation and others on the status of legal aid in Sri Lanka. In the second part of this report, the current status and needs of legal aid in Sri Lanka are discussed by the BASL, which has been taking the lead in promoting policy reforms and private sector programs to enhance the quality of and access to justice.

PART I. NATIONAL LEVEL MAPPING OF LEGAL AID SERVICES IN SRI LANKA 2009 — A SUMMARY OF THE 2009 STUDY ON THE LEGAL AID SECTOR IN SRI LANKA

The most comprehensive documenting of legal services in Sri Lanka is contained in the 2009 joint publication of the Ministry of Justice and Law Reforms (now the Ministry of Justice [MOJ]) and the then Ministry of Constitutional Affairs and National Integration. The report, titled "The Legal Aid Sector in Sri Lanka: Searching for Sustainable Solutions," (the Study) was carried out by the United Nations Development Program (UNDP) and the UNDP Equal Access to Justice Project, the United Nations High Commission for Refugees (UNHCR) and the Asia Foundation. This was the first national-level study on legal aid in Sri Lanka that looked at the formal legal aid service provision sector in Sri Lanka. The Study attempted to identify processes, aspects of service delivery, and gaps in the legal aid system and made strategic recommendations aimed at changes for creating a more comprehensive legal aid system that is accessible to all. The Study comprised reviews of the legislative and institutional frameworks in Sri Lanka, a comparative assessment of legal aid systems in international jurisdictions, and provided findings based on empirical evidence of the status, gaps, and challenges within the legal aid system as explored through the viewpoints of service providers, clients, and beneficiaries. While there have been some improvements in the delivery of legal aid in recent years, most of the findings in the Study are still relevant and actionable today. Below we summarize some of the key findings.

A. LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

The section on the legislative and institutional framework for legal aid provision in Sri Lanka presented in the 2009 Study is reflective of the current background for legal aid service provision in Sri Lanka. Sri Lanka's ratification of the International Covenant on Civil and Political Rights (ICCPR) in 1980 binds the government to provide legal aid to the public. The more recent enactment of ICCPR Act No. 56 of 2007 provides the legislative basis for government-supported legal aid provision in Sri Lanka.

B. LEGAL AID SERVICE PROVIDERS

The 2009 Study includes a brief section on the LAC as the government-supported legal aid program in Sri Lanka. The provision of legal aid in Sri Lanka was formally instituted in 1978 with the passage of the Legal Aid Act (No. 27, 1978) which provided a mandate for government-supported legal aid and established the LAC as the organization responsible for fulfilling the mandate. Under this law, the LAC is primarily funded by the MOJ and governed by an independent commission, and it is tasked with providing legal aid services to "deserving persons," which includes legal advice, funding to conduct legal and other proceedings for and on behalf of deserving persons, obtaining the

services of attorneys at law to represent deserving persons, and any other assistance necessary to provide legal aid to deserving persons. Prior to the founding of the LAC, legal aid was provided by a host of CSOs and NGOs, many of which received international donor funding. The Study notes that the LAC's funding base has seen a significant increase due to the new government funding supplemented with funding from several international donors. The LAC's geographic outreach covers most parts of the country, and it records a high caseload and provision of services.

The Study also focuses on non-government legal aid service providers and analyzes the services provided by 12 NGO service providers.

I. Perceptions based on legal aid service providers, beneficiaries, and the community

The analysis of empirical data in 2009 provided a picture from the perspectives of service providers, legal aid beneficiaries, and broader communities. The survey of non-governmental legal service providers highlighted several interesting and thought-provoking facts that inform many of the current conclusions and recommendations regarding the state of legal aid in Sri Lanka today. Below are some of the main survey findings:

- Legal aid service providers described their legal aid objectives in terms of social empowerment and increasing access to legal aid for the poor to enable them to stand up against injustice and stem abuse of power.
- Legal aid was also seen as a mechanism through which to build the professional capacity of young lawyers, to increase the organization's reputation, and to establish good relationships with other organizations, government officials, and law enforcement officers.
- Legal aid services were perceived as well structured and staffed, showing gender, age, and ethnic balances. Geographic coverage showed that Colombo currently received the most legal aid coverage. Other well served districts included Ampara, Batticaloa, Puttalam, Anuradhapura, Badulla, Hambantota, Matara, Trincomalee, and Kurunegala. Gampaha and Matale had less coverage while there were no service providers operating in Kilinochchi and Mullaitivu districts as of the time of this report.
- The client load handled by service providers in 2007 ranged from 225,686 clients serviced by one organization to 30 by another. Most organizations provided a wide range of legal aid services, and most legal aid services were provided completely free of charge. The common criterion for the selection of clients was income, and most service providers required formal evidence of income levels.
- The bulk of funding for legal aid organizations came from 13 donors, including United Nations (UN) agencies, bilateral agencies, and international NGOs. Smaller contributions were provided by a university and private individuals.

C. KEY ISSUES, CHALLENGES, AND GAPS IN LEGAL AID SERVICE PROVISION

In terms of challenges and gaps in legal aid service provision, the key issues identified by service providers were related to clients, legal aid lawyers, judges, government officials, and to structural and procedural issues. It was found that:

- Outreach, training, awareness-raising, monitoring and evaluation, networking, and overall service provision were elements emphasized by most service providers.
- Greater government support and recognition was essential to improve the quality and delivery of legal aid.

D. BENEFICIARIES' PERSPECTIVES ON LEGAL AID

The Study further included the views of legal aid beneficiaries. The survey of beneficiaries, drawn from links with service providers as well as community organizations, provided views that complemented and supplemented — but also contradicted — some of the views of service providers. The main findings from the interviews with beneficiaries or clients of legal aid services were as follows:

- Clients received information about the legal aid providers in many ways, but the main way was from another individual (e.g., a family member, government officer, neighbor, friends, or former legal aid client). A lesser number received information from some form of organization (e.g., an NGO, government institution, or religious institution), while only a small number were referred to the legal aid organization by the police and the courts.
- The distance to legal aid service providers was an issue for clients. The majority surveyed travelled more than five kilometers to reach service providers.
- In terms of need, the majority of those beneficiaries surveyed sought legal aid services for family disputes. This was the same for men and women, and all ethnic groups. Civil disputes were also common, mostly money-related issues, loan defaults, accident cases, compensation issues, and contract issues.
- Clients accessed legal aid service providers for legal advice, counseling, and legal representation in court. A single client was able to receive more than one service (e.g., legal advice and court representation, or counseling and court representation). According to the beneficiaries interviewed, 60% of issues and disputes that were taken to legal aid service providers culminated in a court case.
- Legal aid service providers appeared to be making a strong effort to provide services in languages that their clients were able to understand. The majority of beneficiaries were satisfied with the language of service provision.
- The commitment of legal aid lawyers was noted. The survey showed that among the beneficiaries who responded to the question on the number of lawyers that represented a single client, 89% stated that the same lawyer followed their case in a continuous manner. This showed that a single lawyer was dedicated to an individual case appearing in court every time the case came up for hearing, indicating a strong commitment by the legal aid lawyer in following the case continuously despite receiving nominal fees for the work.
- Overall, the survey revealed a high level of client satisfaction with 72 percent of beneficiaries expressed overall satisfaction with the legal services provided while only 7.5 percent said they were not satisfied. The remaining individuals surveyed did not answer the question because their cases or issues were new and they could not yet give an opinion.

E. COMMUNITY PERSPECTIVES ON LEGAL AID

Through information drawn from community members in focus groups, the Study provided key points that have shaped the conclusions and recommendations in this Study. The key highlights from these focus groups are summarized below.

1. Availability of Legal Aid

On the availability of legal aid, focus group participants were familiar with legal aid service providers, often due to their physical presence at the district level (e.g., an office and/or sign board in town, the visibility of their lawyers in court). Participants also noted a high availability of legal aid services due to the strong presence and publicity of service providers in the main towns.

- On the availability of legal aid, participants identified domestic violence, divorce, maintenance, and other family disputes such as inheritance as the key issues for which legal aid services were available in their communities. With the exception of one focus group, participants did not mention the availability of legal aid for rights violations, which are of a political nature (e.g., disappearances and killings, unlawful detention, intimidation, and threats). Only one focus group mentioned the possibility of accessing legal aid services for abductions.
- Despite their open criticism of corruption in government administration, law enforcement, and politics, participants did not mention the availability of legal aid for such issues. This was the case for those who mentioned that they had personally faced a situation involving official corruption.
- Women and children were identified by participants as the most marginalized, vulnerable groups in need of legal aid. The second most commonly mentioned groups were internally displaced people and the poor.
- Maintenance for women, domestic violence, child labor, divorce and land issues were cited as the main issues for which people in their communities needed legal aid.

2. Level of Access

One clear area of concern emerging from the focus group discussions was inaccessibility of legal aid at the town level. It was noted that legal aid service providers were not concentrating their operations (both legal aid and outreach efforts) in the towns. While legal aid is available at the district level, these services do not trickle down to severely marginalized people at the lower levels. Services are scarce at the Grama Niladhari level, and more so at the village level. During focus group discussions other issues concerning access to legal aid were highlighted:

- Concern that the level of access to legal aid services varies across different vulnerable populations.
- Community organizations played a key role in facilitating access for the poorest and most disadvantaged to legal aid services at the district level.
- Regard for legal aid service providers - both LAC and NGOs - appeared to be high, but perceptions of these organizations' effectiveness varied from district to district.

Focus group members were able to identify several systemic barriers that prevent the poor and vulnerable from accessing legal aid services in Sri Lanka. These included poverty, security concerns

especially in selected parts of the country directly affected by the war, certain cultural barriers, negative attitudes and lack of support for legal aid among relevant government officials and law enforcement officers, lack of knowledge and awareness of legal aid services and the broader shortcomings of the Sri Lankan justice system (courts).

3. Eligibility Criteria

The eligibility criteria that are used by many legal aid organizations in the client selection process emerged as a contentious issue in the focus groups. Many participants expressed concern that income-based testing is unfair and may exclude many deserving clients when rigidly implemented.

4. Conclusions and Recommendations of the Study

The 2009 Study attempted to provide conclusions and recommendations for all stakeholders in the legal aid service provision process in Sri Lanka. The recommendations were aimed at government and non-government service providers and supporters of legal aid services as well as policy makers in Sri Lanka. As these recommendations remain valid for 2016, they are summarized below.

- There is a strong legislative basis for legal aid in Sri Lanka. Legal aid is implicitly recognized as a fundamental right in the Constitution, especially when read with the ICCPR Act No. 56 of 2007. The Legal Aid Act of 1978 that set up the LAC and gave it the mandate "to provide for the grant of legal assistance to deserving persons" provides an administrative and regulatory background to legal aid service provisions.
- Although this law provides a solid framework for the provision of legal aid in Sri Lanka, it is useful to conduct a broader and deeper review of relevant legislation to evaluate the extent to which it is both reflective of the current situation and needs in the country and in line with international standards, with a view toward revising it as necessary.
- The Sri Lankan government is committed to the delivery of legal aid, as evidenced by the expansion of the LAC's services over the past several years, as well as the recent increase in the government's budgetary allocation for the LAC. As a group, the NGO legal aid service providers appear to be strongly motivated by a sense of social responsibility, service, and social empowerment.
- Sri Lankan legal aid service providers operate independently of government. The LAC, while supported by the state, works independently of other justice sector institutions, which at least in principal ensures its impartiality in the promotion of equal access to justice for all citizens.
- The policy framework for legal aid in Sri Lanka can be improved by clearly articulating the government's policies and commitment to expanding legal aid to all Sri Lankans, and its recognition of the role of non-governmental service providers as part of a framework for broader access to justice and human rights. A vision and resulting national strategy for legal aid in Sri Lanka could be developed through a collaboration among the government and professional (i.e., the BASL) and NGO legal aid service providers in a consultative process that involves all relevant stakeholders.

Based within a clearly articulated legal aid policy framework, and backed by a more comprehensive legislative framework, the Study recommended specific areas for improving service delivery. These include: more geographic coverage, more professionalism and expertise among service providers, more awareness raising, better evaluation of the services currently being provided by the LAC, and

increased and more systematic funding and systems of monitoring, evaluation, and quality control. The Study also pointed to links between legal aid and alternative dispute resolution (ADR) mechanisms, which is an area that has not been studied in Sri Lanka.

PART II. THE CURRENT STATUS OF LEGAL AID IN SRI LANKA

Legal aid in Sri Lanka today relies increasingly on the government's provision of legal aid and legal aid funding. Reduced funding for legal aid from international donors and the dependence of non-governmental legal aid service providers on funds from international donors, the private sector, or the government has resulted in an overall reduction of legal aid services. The sustainability of legal aid programs remains a challenging problem.

In 2015, in an effort to consolidate services under a broad commitment headed by the government, Sri Lanka drafted its first ever National Legal Aid Policy. This policy received the approval of the Cabinet of Ministers and set forth an explicit commitment to provide legal aid to all Sri Lankans. It was organized along thematic areas that looked at governance and management, service provision, and enabling a professional commitment to legal aid amongst all stakeholders within a broad pledge for access to justice for all.

The National Policy reiterates that the Sri Lankan government views the provision of legal aid as a duty and obligation of the government to its people. It accepts that enabling access to justice for deserving persons is the overall aim of the legal aid system, which is formulated within a framework that promotes the recognition of the rights and duties of its people and the safeguarding of such rights within the justice system.

A. CURRENT INTERNATIONAL AND NATIONAL COMMITMENTS TO LEGAL AID

As set out in the National Policy, Sri Lanka's legal aid system is nourished by a framework of international and national commitments clearly articulated by legislation. In terms of international law, Sri Lanka's legal aid system is based on the following:

- Legal aid is recognized as a human right in the ICCPR in its provisions on minimum guarantees in the determination of criminal charges against individuals. This document is the key international legal instrument containing the framework for the obligation of states to provide legal aid to the public. The minimum guarantees include the right to defend oneself through legal assistance of one's own choosing, and the right to have legal assistance assigned to one in any case where the interests of justice so require and without payment in such case if the person does not have sufficient means to pay for it (Article 14).
- The UN Standard Minimum Rules for the Treatment of Prisoners provide that an untried prisoner shall be allowed to apply for free legal aid where such aid is available, for the purpose of his or her trial. The UN Rules for the Protection of Juveniles Deprived of Their Liberty also contains this right for juveniles under arrest or awaiting trial. Provision of free legal assistance is also directed or recommended in other conventions signed by the Sri Lankan government, which also assert children's rights, migrant worker rights and housing rights, and prohibit racial discrimination.

- With regard to the state's obligation to provide legal assistance, the UN Basic Principles on the Role of Lawyers state that: "Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organization and provision of services, facilities and other resources" (Principle 3.3). The UN General Comment No. 28 on equality between men and women holds that states should take measures to ensure that women have equal access to legal aid, particularly in family matters.

The legal framework in Sri Lanka is comprehensive in its recognition of and commitment to the provision of legal aid. The right to legal aid in Sri Lanka is enshrined in the following instruments:

- Article 13(3) of the Constitution of Sri Lanka states that "Any person charged with an offence shall be entitled to be heard, in person or by an attorney-at-law, at a fair trial in a competent court." While this right focuses broadly on access to justice, the right to legal aid is not specifically provided for.
- The Legal Aid Law No. 27 of 1978, already discussed in Part I of this report, is the primary legislation that governs legal aid in Sri Lanka through the establishment of the LAC and the mandate "to provide for the grant of legal assistance to deserving persons." The law also provides an administrative and regulatory framework for legal aid service provision.
- The Code of Criminal Procedure states that every person accused before any criminal court has the right to be defended by a lawyer, and every aggrieved person has the right to be represented in court by a lawyer (Section 260). This right is expanded upon in two sections. Section 195 imposes a duty on a High Court judge to assign a lawyer to an accused person when indicted. And Section 353 states that the Court of Appeal may assign a lawyer to any appellant in a criminal case if it appears desirable in the interests of justice that the appellant should have legal aid and when the appellant does not have sufficient means to obtain that aid. While legal aid *without payment* is not articulated in the Code as a right, these provisions conferring powers and duties on judges of the High Court and the Court of Appeal were taken as effectively granting a right to free legal aid in those courts. This is known as the "assigned counsel" system.
- The ICCPR Act No. 56 of 2007 enshrines a general right to legal aid in criminal cases, including the right to free legal assistance where the person could not afford to pay. In the terms of Section 4 of the Act, a person charged with a criminal offence is entitled "to have legal assistance assigned to him in appropriate cases where the interest of justice so requires and without any payment by him, where he does not have sufficient means to pay for such assistance." This provision applies to all courts including the Magistrate Courts. The ICCPR Act further provides in Section 5 that every child shall have legal assistance provided by the state at state expense in criminal proceedings affecting the child, if substantial injustice would otherwise result. Therefore, whether the child is in court as an accused (in juvenile justice cases) or as a victim (in care and protection cases), or even as a witness, he or she is entitled to legal assistance under this provision.
- The Supreme Court Rules 1990 empower the Supreme Court to enable a person alleging infringement of fundamental rights to obtain legal aid. Rule 44(7) provides for the Supreme Court to act on a complaint alleging infringement or imminent infringement of a fundamental right, even if it is not in the form of a formal petition, where the complainant may not have the means to follow the usual procedures and may suffer substantial prejudice

by such infringement. The Court may further direct the Registrar to refer such a complaint to the LAC or to a lawyer belonging to a similar organization, to prepare formal documents and to proceed with the case.

- The victim and witness protection legislation in Sri Lanka further provides for legal aid. The Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015, in Part II on Rights and Entitlements of Victims of Crime and Witnesses, sets out provisions for legal aid in Section 3(n). The section on “Rights of Victims of Crime” states that a victim should be represented by legal counsel at the several stages of the criminal proceedings relating to the offence, including at the non-summary inquiry, trial, appeal, and application in revision, and that on request such victims should be provided with legal assistance for such purposes where available.

B. LEGAL AID SERVICE PROVIDERS

In 2009, legal aid was provided by a mix of state organizations and NGOs. Today, in 2016, with the support of government and donor funding, the LAC has become the primary legal aid service provider in the country.

C. THE ROLE OF THE GOVERNMENT IN LEGAL AID IN SRI LANKA

In 2009, the LAC was present in 47 locations around the country and received Rs. 50 million from the government for service provision. The LAC also received substantial grants from several international donors, including USAID and the UNDP. The LAC’s geographic outreach covered most parts of the country, and it recorded a high caseload and provision of services.

Currently the LAC operates in 75 locations serving the entire country. For its service provision in 2016, the LAC received Rs. 180 million² from the government. The LAC continues to operate independently, guided by LAC members and managed by a full cadre of staff led by the Chairman of the LAC. A review of the LAC was carried out in 2010/2011 by the UNDP as part of its Access to Justice Project, and the recommendations of that review have been included amongst recommendations from all past studies in the drafting of the National Policy’s strategic action plan, which is currently under way. The LAC envisages undertaking an update of the 2009 Study to provide a current understanding of legal aid, the challenges faced by the sector, and measures needed to improve service provision.

D. THE ROLE OF NON-GOVERNMENTAL ORGANIZATIONS IN PROVIDING LEGAL AID

In the 1980s and early 1990s, the non-government legal aid sector was vibrant in Sri Lanka. NGOs were widely supported by international donors and provided a service that was not provided adequately by the state at the time. In 1997, the Asia Foundation convened a Consortium of Legal Aid Organizations (CLAO) in Sri Lanka. The LAC and other legal aid NGOs were an active part of the CLAO, which at the time was the only forum for sharing legal aid resources and experiences

² As stated by Chairman of Legal Aid Commission at the meeting to discuss the Strategic Action Plan of the National Legal Aid Policy on 24 May 2016 convened by The Ministry of Justice.

and capacity building. The CLAO also provided organizational and networking support for streamlining legal aid in the country.

By 2000, there were approximately 30 well known legal aid providers, and they were listed in the *Legal Aid Service Provider Directory* published by the CLAO. At the time, the reach of the LAC was confined to a few locations in the country.

By 2002, the number of NGOs providing legal aid had been reduced to about 20 organizations due primarily to reductions in donor funding but also due to a less supportive and active CLAO as members' initial commitment to networking lessened. A resurgence of the CLAO's activities occurred in 2005, after the tragedy of the tsunami that devastated parts of Sri Lanka. CLAO members coordinated efforts and combined services to ensure effective legal service delivery in tsunami-affected communities. This collaboration diminished again after the crisis, and by 2009, when the mapping of legal aid was conducted, the CLAO existed only on paper. Nevertheless, many of its members continued to provide legal services and coordinate their efforts covering large parts of the country, with the exclusion of the less accessible areas of Gampaha and Matale. The conflict areas of Kilinochchi and Mullaitivu districts received no legal aid support.

During this period, despite declining donor funding, the government's commitment to legal aid rose substantially, and the LAC began expanding its services. With the end of the war in May 2009, the LAC rapidly expanded its services to war-affected Northern Province districts, thus covering the entire country with legal aid services and raising its profile as an effective institution.

Recently, two new institutions have been organized to provide legal aid services. These are the Legal Aid Foundation of the BASL and the Legal Aid Unit of the Law Faculty of the University of Colombo. While the BASL encourages pro bono work among its members, and has provided scholarships through donor support for those interested in legal aid work, its primary role is research and advocacy for reform. The Legal Aid Unit of the Law Faculty of the University of Colombo was inaugurated in May 2016 and aims to provide pro bono services to those who cannot afford legal support.

E. COMPARATIVE INTERNATIONAL EXPERIENCES APPLICABLE TO SRI LANKA

Extensive literature on legal aid services delivery systems was examined and documented during the mapping of legal aid services in the Study, and this information guided the formulation of the National Legal Aid Policy. Below are some of the key points and lessons from the Study regarding comparative perspectives on legal aid systems.

Lessons Learned from Comparative Analysis of Legal Aid Systems

- One measure of a “successful” legal aid system is that the system receives a considerable investment of public funds. However, success is best measured against the goal for which the legal aid system is developed and against start-up conditions. Here two questions are important: (a) what is the goal and idea behind developing this particular system of legal aid? and b) What are the problems facing society at that moment, how does the current legal system operate, and what is the prevailing legal culture?
- The fundamental purpose of legal aid must guide all topical debates about the development of legal aid. Efforts to design or improve a legal aid system should incorporate a conscious assertion of the State’s obligation to provide effective access to justice, including legal aid where it is required, and this baseline should not be obscured by detail and the search for a “model” system. While international standards obligate the state to provide free and effective legal assistance, there are no international standards that prescribe a particular system or structure to ensure the delivery of legal aid. As a result, different jurisdictions have developed different legal aid systems appropriate to their own context.
- A contemporary solution for legal aid service delivery is the adoption of the “Mixed Models of Legal Aid Service Delivery.” In cases where public funding is limited and the government does not have sufficient resources to finance all legal aid service delivery, the government takes on a regulatory role to ensure the quality and high ethical caliber of legal services provision with the participation of other non-governmental entities such as NGOs, foundations, and paralegals in providing legal aid services. This model assumes that the international community is willing to contribute to the funding of these extra-governmental services, at least until the government is in a better position to expand its services or allocate government funding to the outside service providers.
- Several jurisdictions that have recently developed or modified their legal aid systems, particularly in East Asia, have opted for a mixed model of publicly funded legal aid services. These include China (in 1994), Japan (in 2006), and Taiwan (in 2004). Even countries like England and Wales, where traditional legal aid service delivery systems (judicare) are well established, are experimenting with mixed modes of delivery. The examples of Kosovo, India, and South Africa illustrate how mixed models can make creative use of government and donor funding, as well as partnerships with non-governmental legal service providers (see “The Legal Aid Sector in Sri Lanka,” p. 17).

PART III. THE NATIONAL LEGAL AID POLICY OF SRI LANKA IN 2016

The most current development in the legal aid field in Sri Lanka is the National Legal Aid Policy that was adopted in 2015. The National Policy outlines the need for a strategic and comprehensive policy framework that will guide legal aid service provision in Sri Lanka. Since then, the MOJ and other justice sector stakeholders such as the BASL and the LAC have worked in concert to develop the Strategic Action Plan to guide in implementing the new National Policy.

The following section is based on the BASL's review of the current status of legal aid in Sri Lanka. This section also provides highlights of discussions being held among stakeholders for a more strategic approach to legal aid set within the broader goal of access to justice for all.

A. NATIONAL FORUM ON ACCESS TO JUSTICE

A National Forum on Access to Justice was held in Colombo on June 16, 2016, organized by the BASL with support from the USAID project Civil Society Initiatives to Promote the Rule of Law in Sri Lanka (CSI.ROL). From this forum the following principles and goals were formulated:

1. Legal aid must be recognized as an inherent right to access to justice for all.
2. A holistic strategic action plan is required for the National Legal Aid Policy that looks at legal aid provision by the state and the non-governmental sector.
3. Donor and private sector funding for legal aid must be complemented by government funding.
4. Legal aid service provision must be viewed from an effective and efficient perspective: are the needy being served well?
5. A monitoring mechanism for legal aid is needed that is independent of the LAC.
6. A sense of responsibility and commitment to legal aid must be fostered among lawyers.
7. Both a merit test as well as a needs test should be the criteria used in serving the needy.
8. Legal aid service provision must be enabled at the first point of entry in the criminal justice system.
9. ADR systems (mediation and arbitration) should be implemented within the legal aid system as a means of improving access to justice.
10. Legal aid must be introduced in the legal education curricula as a way to build commitment to legal aid among law students.

B. NEXT STEPS

1. Foster a conceptual acceptance of legal aid as a right within the discourse around access to justice for all

The public's perception of access to justice in Sri Lanka categorically includes access to legal aid. Today there is greater public awareness about the availability and access to legal aid due to the long term efforts of the LAC and the many active NGOs. Consequently there is a great demand for legal aid.

The National Policy on Legal Aid in Sri Lanka identifies the need to recognize access to legal aid as an inherent fundamental right of all citizens. This recognition goes beyond the current Constitutional guarantee to equality before the law and the dedicated legislation on legal aid, and extends to the need to include the specific right to legal aid in the Constitution of Sri Lanka.

The National Policy provides for an overarching commitment on the part of the MOJ and thus the Government of Sri Lanka to this goal of increasing equal access to justice. This government commitment is essential to promoting the idea among the public that legal aid is a right of all people and, moreover, that providing access to legal aid is the responsibility of the government through various government and non-government agencies. But to fulfill this commitment, the government's approach to legal aid has to go beyond the LAC and consider the potential contributions of other organizations such as the Attorney General's Department, the courts, the BASL, and services provided by NGOs and the private sector. This broader perspective will require that the government encourage comprehensive and continued government and private sector funding and resource allocation to achieve a more effective and fair justice system for all Sri Lankans.

2. Review and reform the institutional framework on legal aid

Currently, in Sri Lanka, legal aid is provided primarily by the LAC. However there are other legal service providers working at different levels. These include NGOs, CSOs such as the BASL, the court system through the Assigned Counsel system, and the Attorney General's Department through the Mahajana Pethsam Unit.

The Legal Aid Act of 1978 refers only to the work of the LAC. It is the opinion of the BASL and others that there is a need for a broader formal institutional framework that encompasses all legal aid service providers. This institutional framework would enable mechanisms for collaboration and networking, avoid duplication of services, and thus maximize available resources. It should also institute an independent monitoring and evaluation system within this framework that includes a means to assess or gauge public satisfaction through a grievance and complaints mechanism for the public.

3. Capture current data on all legal aid service providers

Currently, the only publicly available data and information on legal aid is provided by the LAC through their official website. The website, while useful, only provides information on LAC services and leaves out critical information on other sources of legal aid from the numerous NGOs that are active throughout the country.

Thus there is a need for an accessible central system that holds data and information on all legal aid entities and their activities in Sri Lanka. There is an urgent need to update the 2009 mapping of legal aid services and to make such information publicly available through the MOJ.

Furthermore, any effort to provide public information on legal aid must be made available in Sinhala, Tamil, and English if it is to achieve its purpose of increasing awareness of legal aid services and citizens' understanding of their rights under Sri Lankan law to those services.

4. Develop more effective and efficient service provision

To address the question “*are the needy being served well?*” there is a need to review legal aid service provision from an “effective and efficient” perspective.

Such a review should consider the following:

- The availability and accessibility of legal aid for all needy people
- The geographic reach of legal aid — including access at the community and village level and for different groups of communities
- The types of legal aid provided and the need to extend services for criminal matters in addition to civil matters
- Legal aid for fundamental rights and human rights violation issues
- The commitments of legal aid service providers to the continuity of legal aid services.

5. Identify additional and new approaches to legal aid

Additional approaches to providing legal aid must be sought and effectively implemented. Several possible approaches are discussed below.

5.1. A Duty Lawyer Scheme

A Duty Lawyer Scheme is an approach used in other countries that provides free legal advice to individuals at the point of their being charged with a criminal offense, namely at police stations. This scheme would ideally be implemented by the BASL through its pro bono work. There are several complex issues to be considered in implementing such a scheme, such as the need for an amendment to the procedural law. A concept note on the Duty Lawyer Scheme has been developed by the MOJ (supported by the UNDP). This makes this an optimal moment to hold discussions to establish a Duty Lawyer Scheme in Sri Lanka.

5.2. Legal aid and Alternative Dispute Resolution

ADR mechanisms have been shown to have a significant impact on increasing access to justice by providing rapid and less costly remedies to ordinary citizens in the private sector. Currently legal aid service provision does not actively include ADR systems. It is worthwhile therefore to explore the possibilities of connecting legal aid with mediation and arbitration. Mediation could include the current community mediation system and further explore new mechanisms such as court-annexed mediation.

5.3. A formal paralegal scheme

Sri Lanka's justice system does not recognize paralegals as a professional cadre within the justice system. There are barefoot legal service providers known as paralegals, but these paralegals operate in an informal manner accountable only to the specific institution and organizations that employ them. Their primary role is referring those seeking legal advice and legal aid to formal legal aid

providers, advising on minor issues and grievances, and providing some informal, micro-level dispute resolution.

In terms of legal aid service provision, there is scope for paralegals, as a professional cadre, to provide greater access to justice. This would ensure that the formal courts system is not clogged with increased numbers of cases supported through legal aid.

Thus, it is pertinent to explore the possibility of establishing a formal system of paralegals confined to legal aid service provision. This cadre could initially be within the purview, administration, and management of the LAC. Once its mandate, roles and responsibilities, and general recognition are established, the cadre can be expanded to other legal aid service providers including the non-governmental sector.

6. Expand the monitoring of legal aid beyond the institutional level

Currently, the monitoring of legal aid service provisions happens only at the individual institution level where institutions and organizations monitor their own service provision internally. To better understand the status of legal aid and monitor its effectiveness, a system is needed whereby information and data is shared. Thus there is a need for an independent and objective third party monitoring system.

This could be by way of a collaborative effort of all legal aid service providers (similar to the now defunct CLAO), that is led by the LAC but with strategic and active participation of all other legal aid service providers, or a through a Legal Aid Ombudsperson. The system could include different approaches such as meetings, complaint mechanisms, visits, and independent evaluations. Ideally, the system should be independent of the MOJ to avoid potential political pressures and to encourage objective reporting.

7. Expand the funding base for legal aid

Currently in Sri Lanka, the government is the main funder of legal aid services. All government funding goes to the LAC via the MOJ, under a broad mandate to independently administer and account for such funding without government involvement.

Funding provided by international donors and international organizations is often piecemeal and short term, confined to one to two years without the long term commitment needed to sustain legal aid efforts. Furthermore, with Sri Lanka becoming a middle income country, it is natural to expect outside funding for legal aid (which is seen as primarily the responsibility of the government) to dry up in the coming years.

The private sector, with its increasing focus on social responsibility, offers a viable alternative. Strategic means of attracting private sector funding, within a plan that provides funding for all legal aid providers, is needed urgently. There is established interest in this among the private sector that could be tapped effectively.

Another option could be a system wherein recipients of legal aid, based on economic status, can cover some of the costs of legal aid. Within a broader framework of equitable and responsible access to justice, a mixed model system of free legal aid and client contributions to legal aid is a possible and pragmatic solution to sustainability that should be explored.

The establishment of a Central Legal Aid Fund for Sri Lanka is another possibility that has been discussed over the past two decades. A central fund that would receive and disburse resources for legal aid, and that would be administered independently by groups of eminent individuals or a consortium of legal aid providers, could address the issue of the sustainability of funding for all services providers. This independently managed central fund would also make private sector or even individual contributions (on tax exception basis) easier to attract due to its formal and independent nature.

8. Increase commitment of private lawyers to providing legal aid

Despite the widespread notion that private lawyers do not provide legal aid, available information shows that private lawyers do often undertake legal aid cases but on an informal and ad hoc basis and primarily through personal contacts. There is no record that such legal aid was provided due to the absence of a formal system that formally garners the support of private lawyers and records their contributions to legal aid. There is also no system of reward or recognition for private lawyers who provide legal aid. A formal system established by the BASL would be an ideal way of attracting private lawyers to provide legal aid on a systematic and continued basis.

In addition, a recognition and rewards program would be an ideal incentive for lawyers to engage in legal aid. This system could include all or some of the following:

- Tax concessions on earnings for lawyers who provide legal aid
- Provision of legal aid being an eligibility criteria for BASL posts and for the President's Counsel appointments
- A National Awards Scheme that recognizes legal aid lawyers annually.

9. Incorporate legal aid in the formal legal education curricula

Currently legal aid is an extracurricular add-on in all legal education institutions, largely confined to legal aid service provision projects such as those seen in the Faculty of Law, University of Colombo and the Sri Lanka Law College.

In order to build a commitment to and a focus on legal aid, as well as to create a professional identity for legal aid provision among law students and thereby young lawyers, the formal legal education curricula needs to include theoretical, conceptual, and practical aspects of legal aid. This focus can be enhanced with marking and credit systems that directly link legal aid skills with qualifications, passing, and grades. A study of how other countries have successfully advocated for and incorporated legal aid into their formal legal education curricula could provide valuable insights and guidance to Sri Lankan law schools. Scholarships and other incentives are a natural next step that should be endorsed and supported by legal aid institutions. The BASL, with donor support, established an LLM scholarship program in 2015 to encourage public and private sector lawyers who are actively engaged in legal aid services or currently working as public servants in the justice system to undertake LLM studies, and to later use these skills in the public sector or through pro bono work. As the BASL no longer receives support from this donor, finding new ways to fund these scholarships is key to the sustainability of this program and the training of future legal aid professionals.

CONCLUSION

Sri Lanka has demonstrated an enduring commitment to the idea of equal access to justice for all of its people. This is seen in its laws, the international human rights covenants it has signed, its policies, and institutions such as the LAC, CSOs such as the BASL, and the host of NGOs that work to provide legal aid to the poor and marginalized. The recent adoption of the National Legal Aid Policy and the subsequent multi-stakeholder efforts to create a workable strategy to carry out this policy indicate a new phase in the development of Sri Lanka's legal aid system. With the strong backing of the current government, this new phase of a more concerted and strategic approach to the provision of legal aid offers the real possibility of creating an effective, efficient, and sustainable system that will provide equal access to justice for all Sri Lankans regardless of their gender, economic status, and ethnicity.

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**ATTACHMENT E. REPORT: A WAY FORWARD FOR SRI
LANKAN CASE MANAGEMENT REFORM: COMPARATIVE
ANALYSIS OF CASEFLOW MANAGEMENT AND DELAY
REDUCTION BEST PRACTICES IN ASIA AND THE U.S.**



USAID
FROM THE AMERICAN PEOPLE

**"Civil Society Initiatives to
Promote the Rule of Law
in Sri Lanka"**



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Report by the

The Bar Association of Sri Lanka

With the support of USAID's Civil Society Initiatives to Promote the
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ACRONYMS

AJPR	Program for Judicial Reform (Philippines)
BASL	Bar Association of Sri Lanka
CMIS	Case Management Information System
CMOS	Case Management Officer Scheme
CSI.ROL	Civil Society Initiatives to Promote the Rule of Law
DCM	Differentiated Case Management
IT	Information Technology
JRT	Judicial Reform Team
KPI	Key Performance Indicator
MJU	Managing Judge Unit
MOJ	Ministry of Justice
PRLP	Promoting Rule of Law Program
ROL	Rule of Law (Index)
TWG	Technical Working Group
USAID	United States Agency for International Development
OSCU	Office of the Supreme Court of the Union
WJP	World Justice Project

I. INTRODUCTION

The Sri Lankan court, justice system, and executive branch leaders have mobilized to develop a program to address low public confidence and the critical need to modernize the justice system to address court backlog and delay.

Three recent foundational studies conducted by the Bar Association of Sri Lanka (BASL) and USAID's Civil Society Initiatives to Promote the Rule of Law in Sri Lanka (CSI.ROL) program have provided a valuable base of information related to judicial system performance and an initial assessment of factors that may contribute to justice system delay as well as potential strategies to address them.

Taken together, these studies provide the leadership with an analysis of judicial performance issues both from the public's perspective (*National Survey, 2014*) and from the perspective of legal practitioners (*BASL Membership Survey, 2015*), as well as a court management expert analysis of primary source data on the time-to-disposition and areas of inefficiency in the existing Sri Lankan court case processing procedures.

A wide variety of approaches and strategies have been taken in the development of court case management and delay reduction reform in the region. While there is no single approach that applies to all courts, there are common elements of effective case management and delay reduction best practices found in successful programs across all forms and mixes of common law, civil justice, religious, and custom-based court systems in the region and internationally.

The purpose of this comparative analysis is to identify those common elements of proven international best practices and, more importantly, to share the practical experience and lessons learned from court reform initiatives in the region that have a strong potential for application to the Sri Lankan courts in the design of short- and long-term court reform.

One of the main lessons to draw from this comparative review is that many countries and courts in the Asian region facing similar challenges have had success in addressing problems of court delay. With a serious, long-term commitment by judicial and justice system leadership to an incremental process of court reform in light of these lessons, the prospects for meeting present challenges in the Sri Lankan judiciary are strong.

This report is organized to provide a review of the current context of court reform in Asian courts and a comparative analysis of caseflow management and delay reduction best practices from the historical perspective of the U.S. experience and the expansion of those practices to courts throughout the Asian region. Recommendations are made for a practical approach to court reform in the Sri Lankan courts based upon best practices and lessons drawn from a wide variety of successful reform efforts in the Asian courts.

Sections II and III of the report provide background information on the challenges in court reform facing courts in the Asian region and a comparative analysis of the current situation in Sri Lanka and Asian courts relative to key global rule of law indices.

Section III provides a comparative review of the experiences and lessons learned from Asian courts at all levels of economic status that have engaged in significant court reform initiatives. Section IV

reviews the historical development of best practices in caseload management from the U.S. experience and its practical application to the current situation in the Sri Lankan court system.

Section V provides summary conclusions and recommendations for a practical approach to reforming case management in Sri Lankan courts based upon key lessons learned from other courts in the Asian region.

II. CHALLENGES IN COURT REFORM IN THE ASIAN REGION

A. BACKGROUND AND CONTEXT OF COURT REFORM

Serious problems of court delay and docket congestion are common to courts in developing judiciaries around the world. The Sri Lankan judiciary and most Asian court systems face these same challenges.

Court systems in the Asian region have also faced unprecedented challenges due the influence of relatively recent economic and political/social transitions stimulated by the relatively rapid economic growth rate in the region.¹ Courts have come under immense pressure to modernize outdated historical court systems and procedures to handle increasingly complex trade and business disputes and an overall growth in court workload.

The large majority of court systems in the Asian region, both in the most advanced economies and in low- to moderate-income countries, have adopted a wide variety of court reform initiatives to modernize court case management systems and procedures to address court backlog and delay.

However, to date, local court officials and judicial reformers have lacked sufficient access to *practical* information and comparative reviews of court reform efforts in the Asian region — information that is crucial to case management and delay reduction initiatives such officials and reformers wish to undertake.

Two notable recent publications provide practical information that begins to bridge the gap between theory and the experience of practicing in Asian courts to develop insights that can help guide other court reform efforts in the region.

A publication produced by the Asia Pacific Judicial Reform Forum entitled “*Searching for Success in Judicial Reform: Voices from the Asia Pacific Experience*” (2009) provides just such an anthology of articles that review local courts’ experiences with case management and delay reduction reform efforts. The insights it provides — particularly about reform efforts in the Philippines, Indonesia, and Thailand — have greatly informed this comparative analysis.

In a more recent work, *Asian Courts in Context* (2014), law professors Juinn-Rong Yeh and Wen-Chen Chang of the National Taiwan University School of Law also provide a broad and valuable comparative review of Asian court reform efforts through a series of articles by local judicial reform experts reviewing the context and nature of reform efforts in their home countries’ judicial systems.

Interestingly, this study reviews court systems throughout the Asian region by grouping courts into categories of “advanced economies” and “fast developing economies” to consider the court reform approach within different economic and political contexts.

¹ Yeh and Chang (2014). See also Zimmer, M. (2015)

This framework for comparative review by economic level is a valuable approach to identify relevant best practices at all levels of Asian court systems and is used in this comparative analysis of regional Asian court reform approaches.

B. CURRENT SITUATION: COMPARATIVE ASSESSMENT OF ASIAN REGION COURTS

I. Comparative Case Delay — World Justice Project Rule of Law Index

Other than the World Justice Project Rule of Law Index (2015) and the World Bank's *Doing Business* (2013) report, comparative performance data and detailed assessments of the Sri Lankan court system are scarce. The three recent studies performed by the BASL, with assistance from the USAID/CSI.ROL program, noted above, provide primary-source information on the strengths and weaknesses of the current Sri Lankan court systems' case management performance and level of delay.

For the purposes of this review, a cross-section of Asian court systems are grouped into three levels by income and current level of development of court modernization. The court systems reviewed are grouped as follows:

- **Level One: Advanced Economies/Advanced Case Management Reform** (e.g., Singapore)
- **Level Two: Fast-Growing Economies/Somewhat Modernized Case Management** (e.g., Malaysia, Indonesia, and the Philippines)
- **Level Three: Emerging Economies – Low to Mid-level Economies/Developing Case Management** (e.g., Myanmar)

Table I (below) provides an overall comparative review of the most recent World Justice Project (WJP) Rule of Law (ROL) Index (2015)² for the selected justice systems in the East Asia, South Asia, and Asia Pacific regions, grouped by level.

The WJP Rule of Law Index provides an assessment of the strength of each country's rule of law based upon eight key indicators.³ In addition to overall ROL Index scores, sub-indices on areas of civil and criminal case delay are also broken out for comparison.⁴

In terms of the overall ROL Index, the Sri Lankan justice system ranks seventh (0.51 on a scale of 0 to 1.00) among the ten courts used in this comparative review. Sri Lanka's overall ROL Index score is relatively low, but it is average for courts in the low-middle income category. On measures of civil and criminal justice delay, the Sri Lankan justice system scores are significantly lower (civil, 0.35; criminal, 0.37), indicating that delay is a strong negative factor in the overall ROL Index.

² World Justice Project, Rule of Law Index (2015).

³ Note that the World Justice Project 2015 ROL Index is based on a composite of eight factors: Constraints on Government Power, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Effective Regulatory Enforcement, Civil Justice and Criminal Justice. For further details, see www.worldjusticeproject.org.

⁴ These include WJP ROL Factor 7.5: Civil Justice is free from Unnecessary Delay; and a Criminal Delay Index based upon WJP ROL Factor 8.2: Timely and Effective Adjudication.

Singapore shows the strongest score of all “advanced economies” on the overall WJP Rule of Law Index (0.81) and also shows significantly higher scores in areas of low civil (0.84) and criminal (0.82) case delay. The Singapore courts’ case management system is considered among the most efficient judiciaries in the world, and it serves as a “benchmark” Asian court reform model for this review.⁵

In the mid-level “Fast-growing Economies” group, Malaysia (0.57), the Philippines (0.53) and Indonesia (0.52) score highest on the overall ROL Index. However, the court delay index scores vary widely. Malaysia and Indonesia show the highest timeliness scores (civil, 0.63 and 0.60; criminal, 0.50 and 0.48), while the Philippines shows the lowest timeliness scores (civil, 0.27; criminal, 0.31), indicating serious problems of court delay.

Interestingly, all three of these “Fast-growing” level court systems have implemented significant court reform initiatives. A comparative review of reform initiatives in those three court systems can provide valuable information on effective approaches and lessons learned.

At the lower “Emerging Economies” level, the courts of Pakistan and Myanmar have the lowest overall WJP ROL Index scores. But notably, while Myanmar represents the only court system in a low-income economy, it shows significantly higher civil and criminal timeliness index scores (civil, 0.42; criminal 0.41) than most mid-level economy courts.

Table I: Comparative Case Delay: East Asia, South Asia, & Pacific Region Justice Systems

Nation	WJP ROL Index (High performance = 1.00)	Income Level	Civil Justice Delay Index High performance = 1.00)	Criminal Justice Delay Index (High performance = 1.00)	Overall Rank on ROL Index
Singapore	0.81	High	0.84	0.82	1
Australia	0.80	High	0.59	0.76	2
Hong Kong	0.76	High	0.74	0.79	3
Malaysia	0.57	Upper Mid	0.63	0.50	4
Philippines	0.53	Low Mid	0.27	0.31	5
Thailand	0.52	Upper Mid	0.42	0.58	6
Sri Lanka	0.51	Low Mid	0.35	0.37	7
India	0.51	Low Mid	0.24	0.39	8
Myanmar	0.42	Low	0.42	0.41	9
Pakistan	0.38	Low Mid	0.34	0.35	10

Data source: World Justice Project ROL Index (2015)

Recent case management reforms have been initiated in Myanmar that may provide valuable information to the Sri Lankan courts.

⁵ Malik (2007).

2. Complexity of Court Procedures and Delay — World Bank *Doing Business* (2013) Report

The World Bank *Doing Business* (2013) report is used widely as a comparative international index of the relative efficiency of court systems in processing and enforcement of civil contract claims. Research clearly demonstrates that economic development is largely dependent on the effectiveness of the judicial system to fairly and efficiently resolve civil and business-related disputes.

Table 2 (below) provides a comparison of the World Bank *Doing Business* (2013) report results for the time-to-disposition and the number of court procedures required to enforce a civil contract.

Table 2: A Comparison of Asian Courts by Level of Case Management System Development and Contract Enforcement

Court	Level of Development	Median Days to Enforce a Contract	Rank (Time to Disposition)	Number of Court Procedures Required	World Bank, <i>Doing Business</i> Rank
Sri Lanka	Low	1,318	133	41	81
India	Low	1,420	184	46	132
Pakistan	Low	976	155	46	107
Malaysia	Mid-level	425	33	29	12
Thailand	Mid-level	400	23	36	18
Indonesia	Mid-level	498	144	40	128
Korea	High level	230	2	33	8
Singapore	High level	150	1	21	1

Source: World Bank *Doing Business* (2013) Report

Courts in the “Advanced Economies” with a high level of court case management reform (e.g., Singapore and Korea) show low levels of delay and evidence simplified procedures and efficiency in their case-processing systems (21 procedures in Singapore) as compared to low-performing courts (41 court procedures/steps in Sri Lanka; 46 court procedures/steps in India).

It is also significant is that courts in the mid-level “Fast-Growing Economies” that are in the process of case management and delay reduction reform (e.g., Malaysia) also show more efficient case processing procedures and significantly lower levels of delay.

A key principle in successful case management and delay reduction initiatives is the necessity of streamlining the number and efficiency of court procedures. The results shown here from the World Bank *Doing Business* (2013) report appear to demonstrate the potential of modern case management practices to reduce delay and improve the prospects for strong economic growth in countries that invest in modernizing judicial systems.

III. ASIAN COURTS EXPERIENCE: CASEFLOW MANAGEMENT AND DELAY REDUCTION

A comparative review of individual country and regional court reform initiatives will be most valuable for identifying the common elements of success and lessons learned from the mix of approaches taken.

All of the judiciaries reviewed have taken serious steps to implement case management and delay reduction reform initiatives. While the reform efforts varied widely in approach and the initial results were often mixed, there are valuable lessons to be learned from each country's experience.

It is significant to note from the outset that to the extent courts based their reform efforts on incorporating core principles and best practices of caseflow management *as adapted to local court needs and country context*, we observed some degree of positive results regardless of legal system context. Thailand (civil justice), Singapore, the Philippines, and Myanmar (common law), and Malaysia and Indonesia (mixed common law, civil and religious-based legal systems) all showed varying degrees of positive results.

Comparative experiences of courts at each level of development are provided below. It is important to note that these comparative reviews are not intended to rate or rank the overall excellence of the court systems considered.

The approach and strategies developed for a Sri Lankan case management and delay reduction initiative should draw from other courts' experience. But they must also be adapted to the unique challenges faced by Sri Lankan courts, and they must be understood as consisting of discrete pieces that need not always be adopted simultaneously. Efforts to "transplant" entire case management programs, based upon U.S., Singaporean, or other models, is a recipe for failure. Such efforts fail not only because the programs may be ill-fitting to new contexts, but because they inevitably involve attempts to accomplish too much too quickly.

In "Searching for Success in Judicial Reform: Voices from the Asia Pacific," Livingston Armytage offers this advice:

Experience ... testifies to the reality that as court reforms become bigger and more complex, they become difficult to manage effectively. Keeping the complex simple lies very near to the heart of successes identified in the [Asian Pacific] region.⁶

Above all else, the lessons learned show that it is critical to "start small" and establish a clear and realistic strategy based upon best practices for incremental reform. The case management reform plan should set a long-term vision to pursue all aspects of a modern case management system, but in the initial stages "keeping it simple" with a plan that is clear to all stakeholders is key to success.

⁶ Armytage (2009).

A. COURTS IN ADVANCED ECONOMIES/HIGH-LEVEL CASE MANAGEMENT REFORM: THE SINGAPORE COURTS MODEL

I. Approach

Two decades ago the Singapore Courts were considered inefficient, inaccessible, and hobbled by delays and antiquated methods and procedures. Today, according to the World Bank,⁷ the Singaporean court system “has been transformed [into a court system] widely seen as the most efficient and effective in the world.”

The Singapore approach has been to introduce incremental and progressively sophisticated reforms in the courts’ case management system. The process began in 1990 with court rule reforms to streamline inefficient court procedures, followed by a series of case management and alternative dispute resolution initiatives throughout the 1990s that continue to evolve to the present date.

The most recent technology innovations in electronic filing, integrated e-litigation, e-discovery, and paperless court processes used in Singapore are widely regarded as among the most advanced court case management automation systems in the world.

A very important aspect in the Singapore model is that the case management system reform was developed, tested, and adapted incrementally over a period of 25 years. In many ways, the planned, flexible approach and focus on long-term systems improvement may have played as a large a role in Singapore’s success as the individual case management initiatives implemented.

Simply put, Singapore recognized the value of investing in modernizing the judiciary as a way to take early competitive advantage of the opportunity presented by the rapid economic growth projected in the Asian region.

Singapore clearly represents a “benchmark” court reform model that provides a broad scope of successful case management reform initiatives to assist other systems in identifying best practices.

2. Elements of Case Management Reform in Singapore

(a) Judicial Leadership and Commitment

First and foremost, caseload management best practices stress the need for strong, sustained judicial leadership and the commitment of judges and staff at all levels in order to be effective. Obviously, this was and continues to be a key strength in the Singapore model.

Early on, leadership set a clear vision for innovative reform and followed through with concrete goals, initiatives, and performance indicators to measure success. Continuous improvement was a core element in the leadership approach.

⁷ As reported in the Singapore Courts Annual Report (2014).

(b) Caseflow Management Procedures

The Singapore courts have developed a “Case Management Toolbox” (provided in Appendix A) that can be helpful to Sri Lanka and other countries inasmuch as it provides a simple outline of the Singapore case management strategy and “active case management” procedures.⁸

The “Strategy for Overcoming Backlogs/Enhancing Efficiencies” shows the framework Singapore has developed in four “toolbox” key areas of:

- **Diversionary Measures**
 - Alternative Dispute Resolution (2010); On-Site Civil Mediation (2014)
 - Diversionary Programs
 - Pre-action Protocols for diversion of personal injury and negligence cases
 - Bankruptcy case early resolution
 - Singapore International Commercial Court (2015)
- **Facilitative Measures**
 - Rules of Court streamlined, new active judicial case management, early case management conference procedure (1990)
 - Addition of “Judicial Commissioners” from private bar
 - “CMOS” or Case Management Officer Scheme program adding Case Managers to assist judges in managing cases (2011)
 - Simplified Magistrate court pleadings, early case management, direct referral to civil mediation (2014)
 - Case management technology (2000)
- **Monitoring and Control**
 - Pretrial Conferences and scheduling orders (1991)
 - Time Standards adopted (1993)
 - Backlog Reduction initiatives (1993)
 - Regular case-tracking reports, age of pending case statistics (1993)
 - Trial date certainty and expedited trials
 - Differentiated Case Management Model (DCM) procedures (cases classified by complexity with differentiated time standards)
- **Dispositive Measures**
 - Dismissal/Automatic Discontinuance for Inactivity Rule Change
 - Use of peremptory and cost orders
 - Time limits on judgments
 - One tier of appeal
 - Execution of judgments time limits

⁸ Hock (2009).

(c) Backlog and Delay Reduction

The Singapore courts make extensive use of court performance data to track judicial caseloads, age of pending cases (backlog), clearance rates, postponement rates, and time-to-disposition for all cases overall and by judge. Judges have access to regular reports (in real-time) on the status and age of their pending caseload.

Time standards for time-to-disposition of cases are monitored through all stages of the case. A system of “Key Performance Indicators” (KPIs) and goals are set and monitored in order to improve the overall quality and efficiency of the court.

An initial backlog reduction program was launched in 1991 after a case review of the age of all pending cases was completed. Judges identified older backlog cases and attempted to facilitate resolution.

Over the period of 1991 to 1993, the number of civil cases awaiting trial was reduced from 2,059 to 175 cases.⁹ The waiting period for trial (time-to-disposition) was also reportedly reduced from five years to six months over the period.

Active monitoring of judicial workload and the age of pending cases is an ongoing process now built into the Singapore Courts’ Case Management Information Systems (CMIS). It is important to note that the process of case management automation was also one of incremental design and development, beginning with initial CMIS automation in 2000 and evolving to the current highly advanced e-litigation-based technology system.

An important lesson learned from Singapore is that the approach to improving court efficiency and modernizing the court system was not driven by the desire for automation as a solution to inefficiency. This is a trap into which many courts fall.

Much of the early success in Singapore may be due to the fact that the case management reform process drove the automation development process—not the other way around. Courts would do well to heed this approach. To be successful, court automation must be built to support new, re-engineered case management procedures and information needs as the Singapore courts have demonstrated.

B. COURTS IN FAST-GROWING ECONOMIES — CASE MANAGEMENT INITIATIVES (MALAYSIA, INDONESIA, PHILIPPINES)

I. Approach

The three courts reviewed in this group of fast-growing economies (Malaysia, Indonesia, and the Philippines) began development of case management and delay reduction reform recently, between 2003 and 2008. Each of these courts took a different approach, but there are a number of common strategies that were successful.

It is important to note that the scope of this comparative review relates only to the court’s initial experience and approach to case management and delay reduction initiatives. It does not cover the entire history of court reform efforts from start-up to the present day.

⁹ Hock (2009), n.17.

Some of the most notable lessons learned from the successes of the combined experience of these three courts were:

- **Backlog Reduction:** Two of the three courts that were successful began with an aggressive backlog reduction initiative. A pending case audit of all judges' pending case files was completed as the initial step to develop clear statistics on the age and number of backlog cases in the court system at all levels.

Based upon the results, goals were set for reducing backlog in each court. Judges used their list of oldest cases and reviewed each of the oldest cases to resolve them quickly.

Importantly, statistics on the number and age of pending cases and number of cases backlogged over 1–2 years were reported by each court on a monthly basis to evaluate the success of judges in meeting backlog reduction goals. Simple manual and semi-automated Excel-based programs were used to maintain the pending case statistics prior to automation.

- **Judicial Leadership:** The Supreme Court took the key authority and responsibility for the design and implementation of the Case Management Plan.

Generally, the successful courts set up a Judicial Case Management Implementation Team — comprised of Court/Ministry of Justice (MOJ) leadership, reform-minded judges from all levels of the courts, and court management staff — to plan and monitor implementation.

- **Case Management and Delay Reduction Plan:** Crucially, the initial overall goals set by the Supreme Court were simple, concrete, and clear to all judges and stakeholders. As an example, the Malaysian Chief Justice set only two overall goals: (1) to reduce the backlog of pending cases and (2) to improve the image of the Malaysian judiciary.¹⁰

The Case Management Plan established realistic first-year goals and activities (backlog reduction, training, and a pilot court approach to introduce and test new case management procedures). More advanced case management initiatives and automation were planned for incremental implementation over time.

- **Court Performance Statistics and Time Standards:** All courts began extensive data collection and used two key court performance statistics (age of pending cases and calendar clearance). Many courts reported that much of the success was due to this simple collection and reporting of these regular case management reports to judges.¹¹

2. The Malaysian Courts Experience

Since the 1980s, the Malaysian judiciary suffered from extreme backlogs and court congestion that had grown dramatically by 2007. The judiciary's reputation for nearly two decades was one of declining efficiency and increasing delay.¹² In 2008, with the appointment of a new Chief Justice, the

¹⁰ Foong (2012).

¹¹ Lotulung, et al (2009).

¹² World Bank, Malaysia Court Backlog and Delay Reduction Program: Progress Report (2011).

court began a reform initiative focused primarily on reducing the serious backlog of cases at all levels of the courts.¹³

The Federal Court of Malaysia (the nation's supreme judicial court) established a Judicial Reform Team in 2008 chaired by the Chief Justice. The initial Case Management Plan focused on backlog reduction and was piloted initially in the most congested High Courts in Kuala Lumpur and Shah Alam; in late 2008, it was expanded to all High Courts.

(a) Backlog and Delay Reduction

The initial step in the reform program was to call for an inventory of all cases held in court files by each judge throughout the country (the case audit). A baseline statistical report was developed to report the actual ages of pending cases nationwide.

Without the use of computers, a manual system was created by each court to produce monthly reports and an "Aging List" of cases that had been pending for over one year. A backlog reduction goal was set by the Federal Court to terminate all pre-2009 cases pending over one year by 2011.

The Federal Court, High Courts, and each Chief Judge monitored pending backlog case statistics and each judge's aging lists to ensure the reduction of older pending cases.

Following the case audit, each judge reviewed case files and separated active cases from older inactive and potentially disposed cases that remained in active status. Inactive cases were disposed or "purged" from the pending inventory, and older active cases were disposed on an expedited basis.

The results show that the courts reduced the number of pending civil cases from approximately 179,000 cases in 2009 to 128,000 in 2011 (a 30 percent reduction). The number of older cases (pre-2009) pending in the High Courts was reduced from 22,400 in 2009 to 6,600 by 2011 (a 70 percent reduction). Similar results were also shown in the District and Magistrate level courts.¹⁴

(b) Case Management Procedures

The main focus of the case management reform was an aggressive reduction of case backlog and the creation of strong case monitoring systems. The initiative was well-planned, goal-directed, and showed excellent success. It is clearly a best practice approach to backlog reduction.

In terms of CMIS development, there were some notable new case management reorganization and procedures developed, but overall they were limited during the initial three-year start-up. The initiative also did not include a thorough assessment of the existing case processing systems when the project began, which is normally a best practice at the outset of a case management initiative.¹⁵

¹³ Note that as of January 2009, there were 179,000 civil cases pending in the High and District Courts. Over 50% of civil cases were pending over one year, and the oldest cases were pending in excess of 20 years. World Bank, Malaysia Court Backlog and Delay Reduction Program: Progress Report (2011), 34.

¹⁴ *Ibid.*, n.13.

¹⁵ *Ibid.*, n.12.

Notable innovative case management initiatives included the:

- Creation of Managing Judge Units (MJUs) in the High Courts which assigned courtroom registrars to judges to assist in handling pretrial preliminary matters
- Use of a “case-tracking” approach in High Courts that separated civil cases into an “A” track to handle affidavit cases and a “T” track to handle trial cases
- Use of time goals to expedite time-to-disposition for civil (9–12 months) and commercial court cases (6–8 months)
- Appointment of Judicial Commissioners from a pool of experienced lawyers and retired judges for terms of two years to assist High Court judges
- Creation of a New Commercial Court at the High Court level to expedite the handling of commercial cases
- Development of two automated CMIS in the West and East Malaysia High Courts that were in the process of integration in 2012.

3. The Indonesian Courts Experience

The Indonesian Courts have been experimenting with backlog and delay reduction initiatives since 1982. Experimentation with various approaches continued until the creation of the “First Blueprint for the Reform of the Supreme Court,” drafted in 2003 as a cooperative effort between the Supreme Court, the Asia Foundation, and the Institute for the Independence of Judiciary (an Indonesian civil society organization focusing on judicial reform).¹⁶

To implement the “Blueprint,” the Supreme Court established a Judicial Reform Team (JRT) with several working groups, including a Case Management Working Group, a Management Information Working Group, and others comprised of the Supreme Court leadership, justices, court officials/administrators, and other key stakeholders.

(a) Backlog and Delay Reduction

Initial backlog reduction initiatives included a series of “crash programs” beginning in 1982 that involved the temporary allocation of judges and resources to focus on older cases to reduce backlog cases on an ad hoc basis. The “crash programs” generally ran for a period of two years and had positive results. However, those programs were found to be ineffective in the long run as the backlogs became worse after the programs and follow-up “crash” programs had to be implemented to address even more serious case backlogs.

As noted by Paulus Lotulung, “the Supreme Court fell into the trap of responding to the visible phenomenon and aimed to eliminate backlog immediately; however it failed to address the fundamental causes generating backlogs.”¹⁷

With the introduction of the “Blueprint for the Reform of Supreme Court” in 2003, the court took a much more systematic approach. The critical first step was to conduct a comprehensive study of

¹⁶ Lotulung, et al. (2009), n.11.

¹⁷ *Ibid.*, 110.

the current status of all pending cases (a case audit) to understand the extent of the backlog and areas of delay before designing case management strategies and plans.

Unlike the Malaysian courts' approach described earlier, the Indonesian pending case audit was a more detailed pending case study completed by independent auditors, and it collected detailed information to analyze problem areas causing case delay throughout the 30 phases of case processing. From the case audit, a case management reform agenda was created that prioritized areas of delay and initiatives.

Two years after implementation of the case management reform agenda, the case backlog (defined as cases aged over 2 years) as of 2007 was reduced by 35 percent.

(b) Case Management Procedures

As a result of the case audit findings, a number of case management initiatives were developed. Some notable features of these initiatives included the following:

- Regular collection and reporting of case management performance information and statistics was the backbone of the new system and was used extensively at all levels of the courts after the initial case audit to monitor court backlog and areas of delay.
- A major point of delay was found in the judgment phase of the trial process. Time limits were established and monitored and resulted in improvements.
- Criminal cases were placed on a multi-track caseload approach which established differentiated time standards and procedures for prioritizing cases in detention.
- Time limits were established in all courts in the handling of commercial, corruption, and human rights cases.
- A specialized Commercial Case Track/Unit was established with registrar staff, strict case management procedures, and time limits in handling commercial, bankruptcy and, eventually, all intellectual property cases.

4. The Philippines Courts Experience

The Philippines Supreme Court engaged in a variety of court reform efforts in the late 1990s, including attempts at court automation beginning as early as 2000, with limited success. In 2003, the Supreme Court initiated the first comprehensive development of a case management system, operating on a pilot basis in two court jurisdictions, with the assistance of the Program for Judicial Reform (APJR) and the Office of Court Administration.

The Supreme Court organized a Case Management Committee with justice-sector stakeholders and also formed a Technical Working Group (TWG) to develop a caseload management plan and a "Caseload Management Handbook."¹⁸

The caseload management procedures included in the Caseload Management Handbook provided a wide range of step-by-step case management procedures for civil and criminal cases and patterned practices after the U.S. and Canadian models.¹⁹

¹⁸ Elepano (2009).

(a) Backlog Reduction

The initial case management program did not address backlog reduction and implemented the new case management procedures on a “day forward” basis, i.e., all cases after the start date were handled under the new procedures while cases filed prior were handled under the old case management system.

(b) Case Management Procedures

Inasmuch as the caseflow management program was patterned on the U.S. model, it introduced a wide range of advanced case management procedures along with introduction of an automated CMIS.

In essence, the pilot project introduced the complete set of caseflow management best practices into the pilot courts:

- DCM procedures classifying all criminal and civil cases into three case tracks (Simple, Standard, and Complex) based on case complexity criteria
- Establishing different procedures and time standards for each track, using American Bar Association time standards as a guide
- Interim event time standards that set strict time intervals between all case events to monitor the compliance of all cases through each stage
- Initial case information sheets filed by attorneys and used by court staff to classify cases
- Initial case conferences with attorneys and court staff
- Pretrial conferences and scheduling plans
- New case performance statistics and complex tracking systems to identify cases off-track in all stages

The results of the pilot case management program were mixed. Lower courts adopted the program and showed positive results, but High Courts showed poor results and the procedures were not followed consistently.

A number of problems were identified in the implementation approach at the High Court level: court staff lacked adequate training and reported burnout; judges showed a lack of commitment; and the project was plagued by computer glitches.

It appears that the simultaneous introduction of a broad range of new case management procedures, events, advanced case management techniques, and automation was too complex and difficult for the High Courts to manage.

The Philippines courts have made very significant progress since the initial pilot program to refine CMIS systems, particularly in the area of court automation with new electronic filing, docketing, and an “e-court” system in 2013 that provides automated caseflow tracking, scheduling, and bar coding for document tracking.

¹⁹ Elepano (2009), 91.

(c) Lessons Learned

There are a number of lessons to be learned from the Philippines experience. The approach taken was not wholly successful for a number of reasons:

- **It may have been overly complex and unrealistic.** The pilot program attempted to “transplant” the U.S. and Canadian case management models in full at the start. This is a recipe for failure.
- **The approach was not sufficiently incremental.** This case demonstrates the need for a clear and simple approach to implement new initiatives in steps over a three-year period. The case management plan should be based on best practices, but developed carefully *with input from Sri Lankan judges and justice sector leaders (through a Judges Case Management Implementation Team) to be relevant to the local courts’ need and priorities.*
- **The goals were too numerous.** No more than three clearly delineated goals are recommended, and the first year of the plan must be especially conservative in its ambitions.
- **Strong leadership and follow-through by the Chief Justice and Chief Judges** at all levels of court is the key to obtaining the commitment by judges. Extensive training in case management for all judges and lawyers should be a priority.
- **It is key to the initial first steps to complete a full pending case survey and develop statistics** of all case files by all judges, with the assistance of experts, to develop accurate statistics on the number and age of all pending cases.
- **A new automated CMIS** can be developed parallel to new case management procedures, with information technology (IT) and judges’ cooperation, but it should not be implemented until all the new procedures and necessary statistical reports are built into the new system.

C. EMERGING ECONOMIES/DEVELOPING JUDICIARIES: THE MYANMAR COURTS

The Myanmar courts’ recent experience in the implementation of a new case management and delay reduction plan can provide valuable lessons for Sri Lanka. Myanmar is among the poorest nations in South Asia²⁰ and faces immense challenges with the recent political transition. The Myanmar courts are in the process of rebuilding an independent judiciary.

The Supreme Court’s approach to modernization of the court system has been innovative in that the court leadership clearly view the transition as an opportunity to modernize court procedures to address serious delay and very low public confidence in the judiciary.

I. Approach

With assistance of the USAID/Promoting Rule of Law Project (PRLP), the Office of the Supreme Court of the Union (USCU) established a court reform agenda that included the creation of a

²⁰ Note: Myanmar ranks in the “Low Income” category based upon per capita income in the South Asian region, World Justice Project (2015).

Supreme Court Case Management Committee and the development of a Supreme Court Case Management Plan in 2015.²¹

Three initial pilot courts were established at the District and Township levels to implement the new case management plan. A series of initiatives to improve public access to the courts was also promoted. The approach to the implementation of the case management program took the following steps:

- **An extensive training program in caseload management** was instituted and included training of judges and court staff at all levels of the courts. In addition, training was provided by USAID/PRLP to 240 new judges through the Judicial Training Institute.
- **Three pilot courts were established** in representative high, moderate, and low volume courts in a mix of rural and urban areas.
- **Pilot court judges and the members of the Case Management Committee** developed the model Case Management Plan in partnership with PRLP experts over a period of six months.
- **A Case Management Plan** was approved by the Supreme Court in April 2015, and the program was implemented on July 1, 2015.
- **Expansion to five additional pilot courts** is in the process of implementation after one year of testing and adjusting the case management procedures.

2. Backlog Reduction

The first step was to complete pending case surveys and closed case surveys in each pilot court to gather data on the age of pending cases and the extent of the existing backlog and time-to-disposition of criminal and civil cases.

The pending case survey provided statistics and a list of all cases pending over one year for each court and judge. The backlog reduction initiative involved: (1) judges' review of all case files and status of older backlog cases, (2) disposing of inactive cases, and (3) setting all other older cases for a "Pretrial Conference" in open court with attorneys to dispose of the case or set a scheduling plan to move the case to trial quickly.

The pilot courts set a first year goal to reduce cases pending over one year by 10 percent and cases over two years by 20 percent. After the initial six months, the backlog of cases over one year was reduced by 24 percent and cases over two years were reduced by 27 percent.²²

3. Case Management Procedures

The initial step taken in developing new case management procedures was to complete a case workflow analysis of all processing steps and events in criminal and civil cases. Areas of delay and strategies to simplify procedures were identified. The new case management plan and procedures were developed to address problem areas.

²¹ Supreme Court of the Union of Myanmar, "Case Management Plan for the Union of Myanmar Courts," Supreme Court Administrative Directive (April 2015). For further details, see www.unionsupremecourt.gov.mm.

²² USAID/Burma, Promoting Rule of Law Project, "Preliminary Assessment: The Burma Pilot Courts" (2016).

The following steps were taken to introduce new caseload management procedures:

- **Overall time standards** for time-to-disposition of criminal and civil cases were created by the OSCU Supreme Court Case Management Committee. The time standard for the average case was set at six (6) months in criminal cases and twelve (12) months in civil cases.
- **An early Case Management Conference** event with the judge and attorneys was set to occur in all cases within 14–30 days to establish a pretrial scheduling plan and time deadlines for attorneys to complete pretrial preparation.
- **A Pretrial Conference with the judge was set** to occur within 30–60 days to ensure that attorneys had complied with the case management conference order and the case was ready for trial.
- **A date certain for trial** was set at the Pretrial Conference, at which attorneys signed an order to confirm the date of trial and agreed on a witness list.
- **A uniform trial postponement policy and procedure** was established in the Case Management Plan to restrict trial postponements.
- **Basic automation was provided** for each judge/courtroom clerk to automate production of case management and pretrial orders from templates immediately at time of hearing. An Excel case-tracking program was provided to each clerk's office for tracking the age and status of pending cases.
- A web-based CMIS that incorporates the new pilot court case management procedures is in the process of development and testing in the pilot courts.

4. Lessons Learned

While Myanmar is still very early in the implementation of reform in eight pilot courts, the initial results were positive and provide valuable lessons learned for application to emerging court systems. As can be seen below, there were strengths and weaknesses found in the approach after the initial six-month evaluation²³:

- **Early success was due to strong leadership and commitment** by the Supreme Court, Chief Judges, and judges in the pilot courts. Training and involvement by judges in developing the plan, forms, and procedures was key.
- **Judges reported that the early Case Management Conference was the most valuable aspect of the program** as it eliminated a number of unnecessary initial events and allowed judges to take control of the case, setting a clear schedule for pretrial preparations by attorneys.
- **DCM procedures** classified cases into three trial tracks: (1) Quick Action, (2) Standard, and (3) Complex. Cases with significant complexity (e.g., land dispute and homicide) were provided with longer time goals, and Quick Action cases (e.g., cases involving vulnerable populations and simple low-value civil claims) were given shorter time goals to disposition.

²³ *Ibid.*, n. 29

- **The use of a Pretrial Conference event before trial** reduced the large number of hearings and postponements in criminal cases under the old procedures.
- **Postponement rates in criminal cases** were reduced from 60.8 percent to 29.6 percent, and the average number of hearings required to dispose of a criminal case was reduced from ten (10) hearings to four (4).
- **Backlog of criminal and civil cases** over two years was reduced by 25 percent.
- **Early disposition of cases** and clearance rates increased in all pilot courts. The average rate of increase was 105 percent in criminal courts and 109 percent in civil courts.
- **Weaknesses** included the need for more stakeholder (prosecutor, lawyer) training and involvement before the start of the program. Initial stakeholder meetings were held but needed to be expanded.
- **The trial continuance policy** required amendment, and the Excel case-tracking system was helpful in producing statistical reports. However, staff had limited skills, and initial training needed to be expanded.

Overall, the incremental implementation approach and the involvement of the Supreme Court and judges in the development of the program were positive factors in the initial progress of the pilot courts. The strong focus on the use of performance statistics and reporting to monitor the backlog of pending cases was also a beneficial. Regular reporting on backlog statistics motivated courts and judges to meet and exceed the case management goals.

IV. CASEFLOW MANAGEMENT AND DELAY REDUCTION BEST PRACTICES

A. HISTORICAL DEVELOPMENT: THE U.S. EXPERIENCE

In the 1970s, the U.S. courts first identified the practice of caseload management as “a set of actions that the court takes to monitor and control the progress of cases from initiation through trial or disposition that ensures that justice is done fairly and promptly.”²⁴

Maureen Solomon and Douglas Somerlot (1987) further refined the definition of caseload management to include a new proactive role for judges in the following areas: (a) setting and monitoring of court events; (b) supervising all cases from the point of filing; (c) scheduling appropriate events in each case, monitoring compliance with deadlines, and providing credible trial dates; and (d) assuming active management of cases to ensure timely preparation of a case for disposition.²⁵

Throughout the 1980s, caseload management programs were implemented throughout the U.S. and Canada, highlighting the core principles of early court control and active court (i.e., judge) management. The concept of active judge management of cases from an early stage is the essence of effective caseload management.

Singapore Justice Mr. Foo Chee Hock offered this definition of “active judge management” based on the Singapore case management system:

Active case management is a system of management of the time and events in a case as it proceeds through the justice system, from initiation to disposition. The two essential elements of active judge management are the setting of a timetable for pre-determined court events and judge supervision of the case according to its timetable.²⁶

Research by U.S. caseload management experts David Steelman, Maureen Solomon, and others, identified seven core fundamental best practices of effective caseload management and delay reduction²⁷:

1. Judicial Leadership and Commitment
2. Consultation with the Bar
3. Time Standards and Goals
4. Early Judicial Intervention and Continuous Control
5. Case Classification and Differentiation by Complexity
6. Uniform Trial Continuance Policies
7. Monitoring and Information Systems

²⁴ Solomon (1973).

²⁵ Solomon and Somerlot (1987).

²⁶ Hock (2009).

²⁷ Steelman (2008); Solomon (1993).

Each of these elements must be considered in developing a successful delay reduction initiative. Most countries worldwide, and those successful courts contained in this comparative review, have been guided by these caseload management principles and methods in the development of court reform and delay reduction initiatives.

The value of these core principles is that they provide a simple framework for assessing the unique challenges facing different court systems and building practical delay reduction programs based on local court system needs and conditions.

The principles are proven, evidence-based best practices drawn from a large body of research and practical experimentation over the last three decades in the U.S. and Canada, followed by wide expansion to court systems in the United Kingdom, the European Union, Australia, and Asia.

It is important to keep in mind that these fundamental principles are not prescriptive and must be adapted to local context and needs. In fact, practice shows that attempting large scale replication of advanced case management systems consistently meets with poor results and can exacerbate the problems and set back reform efforts. There are examples of this in the comparative analysis of Asian courts provided above.

B. PRACTICAL APPLICATION OF U.S. BEST PRACTICES TO THE SRI LANKAN COURTS

In terms of practical application to the Sri Lankan courts, it is important to note that the Sri Lankan courts already have a head start in the assessment of their strengths and weaknesses in these areas, thanks to the commitment of the judiciary and the MOJ to case delay reforms, as well as to the recent empirical studies by the BASL (*Membership Survey on Case Management Practices in the Courts*, 2016) and the CSI.ROL project. The Sri Lankan courts' Case Management and Delay Reduction Plan can be guided in large part by reviewing the strengths and weaknesses identified in those studies.

While the results of the studies show deficiencies that must be addressed, there are also significant areas of strength present in the Sri Lankan courts. Most significantly, the results show a high degree of judicial leadership and commitment to delay reduction and more efficient case management. There was also the positive finding that many regions are focusing on case backlog reduction, use of time standards and goals, and better control of trial continuances. Building on these strengths is as important as addressing case management deficiencies.

The most pressing areas of weakness relate to a lack of modern caseload management practices, specifically in the area of judges assuming a new role in the proactive management of cases from point of filing to disposition.

Many outdated practices in the early pleadings, pretrial stages, and trial scheduling practices are currently creating serious delay and inefficiency. Several of these inefficient practices are legacies of a now-outdated British colonial common law system.

Early British colonial court procedures were overly complicated and bureaucratic. The old British common law system was based on judges taking a "passive role" in managing cases, leaving control of the pace of litigation to attorneys. While these practices continue in many former colonies of the

British Crown in Asia, the United Kingdom's judicial system itself has long since been reformed to adopt modern caseload management practices.²⁸

Among the most practical techniques with application to Sri Lankan courts are those described below.

1. Early Court Intervention and Use of Case Management Conferences

The principle of “Early Intervention and Continuous Control” by judges relates to the concept of active judge management. In modern case management systems, judges commonly hold an early case event with the attorneys, known as a Case Management Conference.

This new early court event has proven an effective step in eliminating many unnecessary initial court hearings, allowing the judge to consolidate them into one effective case management conference.

At the conference the judge takes control of the case: he or she reviews the nature of the case, establishes a pretrial order with reasonable deadlines for pretrial preparation, and sets an anticipated date of trial. This holds attorneys accountable for timely preparation of their case for trial.

This method has led to demonstrable reductions in delays.²⁹

2. Backlog Reduction and Time Standards

An important initial step in delay reduction is the development of a Backlog Reduction Plan. This is a substantial effort and must include:

- (a) Pending Case Inventory:** A comprehensive inventory of all pending cases for all judges in all courts. The use of a uniform “pending case survey” data collection process with expert assistance is the best practice.
- (b) Age of Pending Cases Statistics:** The result of the survey will provide a complete statistical report of all cases pending by age and type of case for each court. This provides a baseline of the current size of the backlog for ongoing monthly reports to monitor the success of the program.
- (c) Backlog Reduction Goals:** Based on the baseline results from the report above, clear and realistic goals must be set for backlog reduction. Court leadership should establish time goals or initial time standards that will determine the reasonable time-to-disposition for common civil or criminal cases.

Time standards are not laws or strict regulations; they are flexible goals to guide judges and the court system in reducing backlog. For example, courts vary in time goals, but many courts set a time standard of 12–18 months for disposition of civil cases and 6–12 months for criminal cases. Once time standards are set, the court can then set goals for reducing the number of pending cases that have exceeded their time standards; these are referred to as backlog reduction goals.

- (d) Data Collection and Backlog Reports:** Courts must set up methods to collect and report the age of pending cases. A uniform manual data collection and monthly report

²⁸ See Plotnikoff (1988).

²⁹ Goerd (1991).

procedure or basic Excel-based case-tracking programs have been used successfully by many courts.

3. Differentiated Case Management (DCM)

DCM is a modern case management procedure employed by U.S. courts and the majority of Asian courts reviewed in this report. The DCM model recognizes that “cases differ substantially in the time required for a fair and timely disposition”³⁰ and should be subject to different time requirements and case processing procedures. Some cases may be simple, with straightforward issues that require little pretrial preparation. Other cases may be complex, with multiple parties, a large amount of pretrial discovery, expert reports, or other factors that require more time and more intensive supervision by the judge.

DCM involves the early classification of cases by the judge to “case tracks” for complex, standard, or expedited cases, each with differing procedural requirements and time standards geared to the requirements of the cases assigned to that track. Asian courts in Malaysia, Indonesia, Singapore, and Myanmar all employ some variation of this method of DCM with success.

4. Pretrial Conferences, Trial Scheduling, and Control of Postponements

A key case management principle is that cases should not be set for trial or witness hearings until the case is ready for trial and all pretrial preparation has been completed.

There are a number of case management best practices employed in other courts to streamline the hearing and trial scheduling process. As noted above, the use of a Pretrial Conference event immediately prior to trial will ensure that lawyers have completed pretrial discovery (per the initial Case Management scheduling order mentioned earlier) and have all witnesses ready for trial. (This Pretrial Conference is distinct from, and occurs well after, the initial Case Management Conference discussed in III.B.1 above.)

At this Pretrial Conference, a date certain for the first trial date is set. Attorneys sign a pretrial order that sets out the date and order of witness testimony as agreed to by both counsel. This date certain will not be postponed except for “extraordinary” reasons laid out in a uniform postponement policy.

Multiple witnesses are also scheduled on each trial date, and on consecutive days where possible. Trials are more certain to occur and scheduling multiple witnesses reduces the frequent postponements caused when the single witness scheduled does not appear. Also, judges provide adequate time for the witness’s testimony so cases are disposed more quickly and the judges hearing calendars become less congested.

³⁰ Solomon, Cooper, and Bakke (1993).

V. SUMMARY RECOMMENDATIONS FOR CASE MANAGEMENT APPROACH

The most important lesson learned from the experiences of other courts in the Asian region is that case management and delay reduction initiatives have great potential to address the problems of court backlog and delay confronting the Sri Lankan courts.

Many courts in the region have had significant success regardless of their economic status, the context of their legal system, or the severity of case delay they faced. The court systems reviewed took a variety of approaches to initiating case management and delay reduction programs. The results were mixed, and there are clear lessons to be learned from their experience.

There are a number of commonalities to successful approaches identified in this comparative review that may be adapted by the Sri Lankan courts, based on local needs and priorities. In fact, one key lesson learned is that *the method or approach taken to implement new initiatives is as important a factor to success as the types of case management procedures, backlog reduction, or automation introduced.*

A critical feature of the most successful case management and delay reduction models was an incremental approach over time in which judges took an active role in adapting case management best practices to local court needs.

Capturing the best practices of case management reform efforts in Asia and in the U.S., Canada, and Australia, the following is a recommended framework for developing and implementing a case management reform program:

- I. Establish a Case Management and Delay Reduction Planning and Implementation Governance Structure** — Establish key Case Management Stakeholder Committees to ensure that both policy-level planning and operational-level implementation issues are considered in structuring the ongoing development process.
 - a. Policy Level — Court Performance and Delay Reduction Strategic Planning Committee** responsibilities could include:
 - Case Management and Delay Reduction Three-Year Strategic Plan, Goals, and Priorities
 - Oversee development and evaluation of Annual Action plans developed by operational-level Case Management Committee
 - Liaison with all government, legislative, and stakeholder agencies.
 - b. Operational level — Case Management Program Implementation Committee** responsibilities could include:
 - Case management education and training program
 - Technical support in analysis of the existing case processing and document management workflow system
 - Oversee the planning of the pilot court program and the development of a case management and backlog reduction plan

- Recommend a uniform national Case Management Plan
- Coordinate with CMIS technical team in identifying new case management reporting requirements.

- 2. Case Management Training and Education Program:** The BASL Membership Survey and accompanying report and the recent CSI.ROL Case Management Assessment both identified the need for an education and training program in case management best practices and standards for both the Bench and the Bar as a high priority. It is important that this case management training activity and curriculum plan be developed as a first step. Advanced case management, trial management, and specialized legal training in targeted areas (e.g., land disputes) and managing complex cases should be developed through a training needs assessment.

The training program should be comprehensive and should initially involve MOJ leadership, managing judges, key managing court administrative staff, and the BASL leadership. The case management education program should cover a period of six months and be expanded in phases to reach all managing judges, BASL leadership, and a representative number of trial judges throughout all regions and at all levels of the court system.

- 3. Development of Model Case Management and Delay Reduction Strategies:** There is a wealth of valuable information on current case management system performance provided by the BASL Membership Survey, the CSI.ROL Case Management Assessment, and other assessments. Those studies focused on a comprehensive analysis of the strengths and weaknesses in the existing case management system based upon international best practices from the perspective of legal practitioners with daily experience with court system and an in-depth study of internal court case management procedures and performance.

The recommendations in those studies provide a good foundation to identify best practice strategies and case management tools based on the needs of Sri Lankan courts. Some of these potential strategies are also detailed above in Section IV.B, Practical Application of U.S. Best Practices to the Sri Lankan Courts. The tools and strategies would then need to be adapted to the Sri Lankan courts and tested through a pilot court program, with eventual expansion to the entire court system, as appropriate.

- 4. Pilot Court Program Approach:** A pilot court approach could be an effective best-practice strategy to begin the case management reform process in Sri Lanka. A three-year pilot court case management strategy should be developed at the outset and can be flexible and refined based on progress made. The selection of the pilot court is a critical decision. The court selected must have a Chief Judge that demonstrates strong leadership. The scope of activity and time commitment that will be required in the development of the initial pilot court is substantial, and the chosen court must have the capacity and time to devote to the project.

It is important when selecting the pilot court to identify a court that is relatively well-organized, not facing extraordinary caseload problems, and realistically has the time and potential to successfully implement wide-ranging change in court procedures. Pilot case management programs most often fail due to extraordinary caseload problems or other conditions that make it impossible to successfully implement and test the new case

management procedures. This situation sets back the process of reform and often causes a lack of confidence and decreased willingness of courts to participate.

Case management reform must be approached as an incremental process. The successful testing of the case management procedures in the initial pilot court(s) enables broader expansion of the best practices to other courts and regions, normally in a phased approach.

The first phase is the development and thorough testing of new case management procedures in one court. The second phase adapts the successful best practices and expands the case management program to a group of 3–5 representative courts in selected regions and at all levels of the courts. Phase three is the adoption of the case management program on a nationwide basis.

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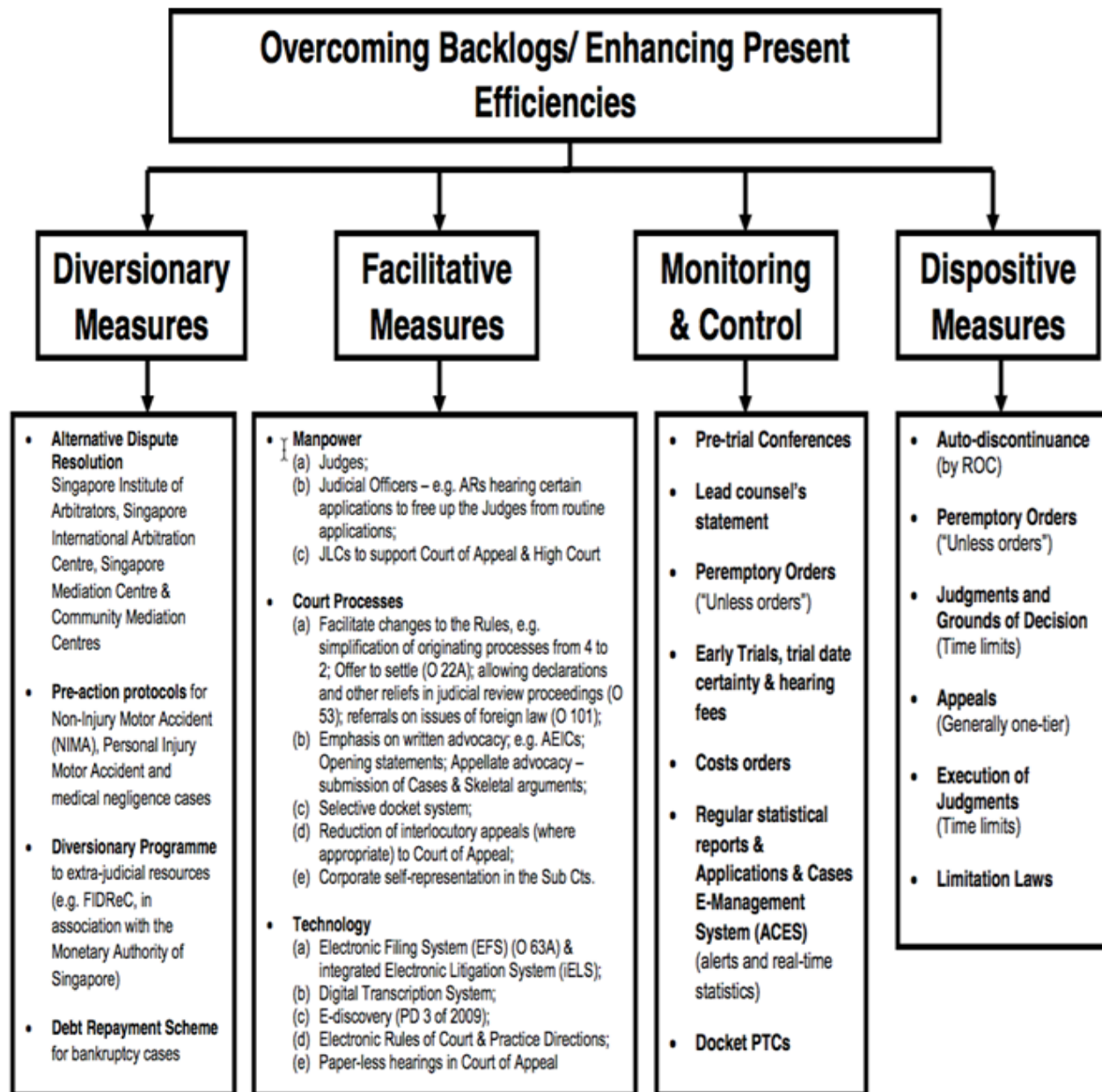
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APPENDIX A: SINGAPORE COURTS CASE MANAGEMENT TOOLBOX



**ATTACHMENT F. MEMORANDUM TO BASL: IMPROVING
THE QUALITY OF THE BAR ASSOCIATION OF SRI
LANKA'S CONTINUING EDUCATION COURSES AND
MATERIALS – MARY FRANCES EDWARDS**



USAID
FROM THE AMERICAN PEOPLE

**"Civil Society Initiatives to
Promote the Rule of Law
in Sri Lanka"**

MEMORANDUM

From: Mary Frances Edwards, Legal Education Consultant, CSI.ROL Project

To: The Bar Association of Sri Lanka

Date: July 18, 2016

Re: Improving the quality of the Bar Association of Sri Lanka's continuing legal education courses and materials

A. OBSERVATIONS

Supporting continuing professional education is one of the duties of a bar association. The International Bar Association's Policy Guidelines for Training and Education of the Legal Profession state that:

It is an important task of the legal profession when serving their clients in a modern democratic society under the Rule of Law to use and modernise centuries-old legal doctrines in the ever changing globalised social and business environment which requires a constant renewal of the knowledge of the lawyers and it is a personal responsibility of every lawyer to update and renew his/her knowledge in the framework of a lifelong learning process to be able to use the new legal doctrines and technics and being able to tackle the ethical/deontological and technical challenges.¹

The Guidelines further state:

The Bar Associations and Law Societies as professional organisations of the lawyers have primary responsibility to encourage their members to take part in continuing professional education and to ensure the availability of various training forms such as training events, lectures, conferences etc. to transfer such knowledge and to supervise whether their member satisfies their obligation in Continuing Professional Education.²

The author was retained by the CSI.ROL project, as part of its ongoing support to BASL, to review the continuing legal education program of the bar and offer recommendations for improving quality and ensuring sustainability. From 1991 to 1996, the author was the Manager of Continuing Legal Education (CLE) of the District of Columbia Bar,

¹ International Bar Association's Policy Guidelines for Training and Education of the Legal Profession, Part 2, adopted by the IBA Council October 23, 2014, Section 1;
http://www.ibanet.org/Publications/publications_IBA_guides_and_free_materials.aspx

² Id, section 2

Washington, DC, USA and the Academic Director of Education at the National Judicial College in Nevada from 1996-2001.

As part of her assignment in Sri Lanka, the author met with BASL leaders, staff, CLE resource persons, and BASL members. She also reviewed the BASL member survey for 2015 and materials from current BASL CLE courses.

Although some BASL members favour it, Sri Lanka does not yet have mandatory CLE. Regardless of mandatory requirements, all CLE should have supportive written materials for the participants to use afterwards. Such materials have been the base of voluntary CLE since its inception. Organizing written materials supports the structure and design of the course.

It will be even more important to have good written materials if Sri Lanka adopts mandatory CLE. In the USA, where nearly all jurisdictions require mandatory CLE, the American Bar Association adopted a Model Mandatory CLE Rule in 1986. Section 7(d) states:

Before, at, or during the course or activity, each attendee must be provided with course or activity materials, either print or electronic, of a quality and quantity which indicate that adequate time has been devoted to their preparation and that they will be of value to the registrants in their practices.³

The BASL's 2014 annual member survey showed that there is clearly room for improvement in its CLE. Question 1b asked how well BASL served the members needs in four areas, including CLE. The result was:

	Very Poor	Poor	Satisfactory	Good	Very good	Not respondent
Continuing legal training in my field of practice	9	40	64	29	8	21

Out of 171 respondents, 49 were dissatisfied with BASL's CLE in their field.⁴ That's almost 29%. In the consultant's experience, that is a high level of discontent. In question 6 of the same survey, only 45% of the respondents had participated in a BASL training, seminar or workshop in the last year, and of those only 39% reported having used the knowledge or skills acquired in the BASL seminar, training or workshop.⁵ This may be in part due to BASL CLE curriculum, which is not comprehensive. Several of the people the author interviewed said that course offerings were "ad hoc" and need to be more systematic. In 2015, the BASL presented courses on the following, many with CSI.ROL funding support:

³

http://www.americanbar.org/content/dam/aba/migrated/2011_build/cle/mcle/aba_model_rule_cle.authchekdam.pdf

⁴ CSI.ROL BASL Annual Survey Report 2014, p4

⁵ Id, p7

- 5 CLE Seminars – Nugegoda, Marawila, Ampara, Negombo and Mount Lavinia.
- Junior National Law Conference
- National level Program on International Labour Migration
- Seminars on Illegal Fishing in Sri Lankan Waters
- New Banking Practices under Cheque Imaging and Truncation System
- Training Programs on Negotiation Skills
- Training Program on Law and Procedures of Gender Equality
- Workshops on Aspects of Civil Law and Procedure
- Certificate Course on Information and Communication Technology Law
- Certificate course in Forensic Science ⁶

The author reviewed course material for Information Communication Technology and Criminal Defense, among others, including recent courses at the Kandy Law Conference held January 16 – 17, 2016, sponsored by CSI.ROL, the BASL, and the Junior Bar Committee of the Kandy Bar Association, which included Negotiation, Criminal Defense, and Oral Advocacy. A frequent criticism heard of BASL CLE is that it is “Ad Hoc.” Topics seem to be determined by the willingness of presenters to teach, and the quality of the materials is inconsistent. There is no course catalogue or systematic offering based on the needs of the profession, particularly as measured by member requests and the annual membership survey. To the extent original materials exist, they are good, but many topics in the ICT course and on the agenda of the Kandy conference had no materials. Some of the Kandy materials were just reprints from other countries.

It is the obligation of the BASL (or a related independent entity such as the proposed Bar Legal Studies College of Sri Lanka (BLSC-SL) to ensure that its members receive affordable continuing professional development.⁷

Furthermore, according to the International Bar Association (IBA), bar associations shall:

4. . . . make sure that all necessary forms of training and education and training techniques (distance learning, etc.) are made available suited to the individual training needs of each lawyer participating in Continuing Professional Education including the availability of
 - a. high quality training on all fields of law practiced by the members of the respective Bar Association and Law Society addressing all new developments in such field of law;
 - b. workshops and other form of education on improving the soft skills of the lawyers such as negotiation techniques, oratorical-, computer skills, etc.; . . .⁸

⁶ BASL Annual Report 2015, pp 42 - 48

⁷ International Bar Association’s Policy Guidelines for Training and Education of the Legal Profession (see footnote 1), section 8

⁸ Id, section 4

BASL officers seem aware of the limited curriculum and the inadequacy of accompanying written materials. Fortunately, the officers, active members, trainers, and staff of the BASL all agree that its continuing legal education offerings need to be improved and expanded.⁹ With that goal in mind, efforts are going forward to start an independent CLE institution. In a separate document, the author has made specific comments on the proposal for a new, independent CLE institution, tentatively named Bar Legal Studies College of Sri Lanka (BLSC-SL). Whether CLE remains a function of BASL itself or transfers to a related, independent organization, for either to be successful it must present high quality courses with good course materials in a comprehensive curriculum.

B. RECOMMENDATIONS

The key to making the BASL and its proposed successor the BLSC-SL successful and self-supporting is to present consistently high quality courses that lawyers *want* to attend without the requirement of mandatory CLE. The author knows this is feasible from the history of CLE and from her own personal experience managing CLE program of a large bar association.

CLE began on a completely voluntary basis in 1916 when the Bar association of the City of New York began offering a series of lectures for general practitioners.¹⁰

The Practising Law Institute began presenting courses in 1933, largely to acquaint lawyers with new federal legislation.¹¹ A cooperative organization of the American Bar association and the American Law Institute started in 1947 to present CLE to returning World War II veterans¹² and thrived for over 20 years until mandatory CLE became prevalent in the USA in the late 1970s.

Although the District of Columbia did not have a mandatory CLE requirement at the time of the author's employment there in the early 1990s, most US jurisdictions did, and there were lawyers from all over the country working in DC, the nation's capital, most of whom had a mandatory requirement in their state of admission. Some of them also had a mandatory ethics requirement, so she decided to expand our legal ethics curriculum. She found a dynamic, innovative young lawyer who was an expert on legal ethics. He was an interactive presenter who taught through hypotheticals and group discussion. Later he added role playing and small theatrical events staged by amateur actors to his presentation techniques. His courses were not only informative, they were also fun! As word spread of the high quality, lawyers with no MCLE requirement whatsoever started to attend to upgrade their ethical judgment. The courses had clever titles, like *The*

⁹ 10 meetings between the author and BASL members or staff June 21 – July 10, 2016, in particular June 22 with the Committee to discuss the proposal for the new organization to conduct CLE programs

¹⁰ C. Moreland, Professional Education of the Bar: Growth and Perspectives, p 3 (1972)

¹¹ H. Friday, Continuing Legal Education: Historical Background, Recent Developments, and the Future, 50 St. John's Law Review, Spring 1976, p. 503

¹² Id, p. 504

Virtuous Lawyer. The original presenter passed the torch to an equally talented trainer, who has further expanded the curriculum and continues to present courses to this day.¹³ Nearly 20 years of success is the result of high quality organization, presentation, and course materials.

Improving the quality and consistency of BASL CLE courses is critical for achieving BASL'S CLE goals and for the future financial viability of CLE and the BLSC-SL. There are several strategies that BASL can promote to improve the BASL CLE courses. The consultant offers seven recommendations for improvement below:

1. Training of Trainers (TOTs)

BASL should provide all its trainers with a generic TOT and as many as possible with what topic specific TOTs are available. Trainers should be required to develop learning objectives and use a wide variety of presentation techniques, not just lecture and Q&A. Two kinds of TOTs are possible, generic TOTs about how to teach fellow adults and topic-specific TOTs about how to teach a particular topic. A generic TOT typically includes adult learning theories, lesson planning, goals and learning objectives, course material preparation, audio visual aids, course delivery, evaluation, and practice teaching. Additional topics can be gender sensitivity and generational differences in learning. Topic specific TOTs usually focus on how to take an existing syllabus and course manual and present them locally. These include specific instructions to the local trainers on topics, presentation techniques, and when to hold exercises and group activities.

2. Standardization of Courses

Most CLE organizations have “branding” – a logo and consistent look to their promotional materials, agendas, and course materials. The BASL CLE appropriately uses the very attractive logo of the Bar, but not on all agendas and materials. Branding should be consistent. Lead trainers and Program Staff should also develop a syllabus for each course following a standard format to ensure quality control. Syllabus topics should include history of the course, core subject, title and level, course description, target audience, participant profile, prerequisites to attend, participants’ requirements before, during and after training, goals and learning objectives, major course topics, recommended format and presentation methods, course materials description, follow-up courses, and recommended trainer profile. The trainer profile is important in case there is a change of resource people to teach the course. See attached sample syllabus template (Attachment A).

3. Goals and Learning Objectives

A *goal* is a broad statement of the kinds of performance, knowledge or attitudes a person will eventually attain or exhibit, in the long run, as a result of learning from the course. *Learning objectives* are more specific outcomes; they state what learners will know or be able to do at the end of the educational experience.

¹³ <https://proethics.com/>

For example, the goal of a TOT workshop is improve the participants' ability to teach fellow adult professionals. The specific learning objectives include:

- Identify various theories of adult learning
- Recognize generational differences in learners
- Design good audio visual aids
- Choose different presentation methods
- Demonstrate effective presentation skills

The learning objectives are a guide for the choice of instructional activities and materials and provide a framework for evaluating the course to make sure the participants can do what you want them to do. A learning objective is not what the faculty member plans to do; it is the response expected from the learner. Each CLE course should have a goal, and each segment of the course should have at least one learning objective.

4. Standardization of Course Materials

Similarly, to ensure the organization and quality of written materials, BASL should adopt a standard format, typeface and binding. To be useful after the course, manuals should be organized into sections and sub-sections. See attached sample template (Attachment B), based on the format of the Civil Trials Training Manual published by the Legal Aid Commission of Sri Lanka and funded by CSI.ROL.

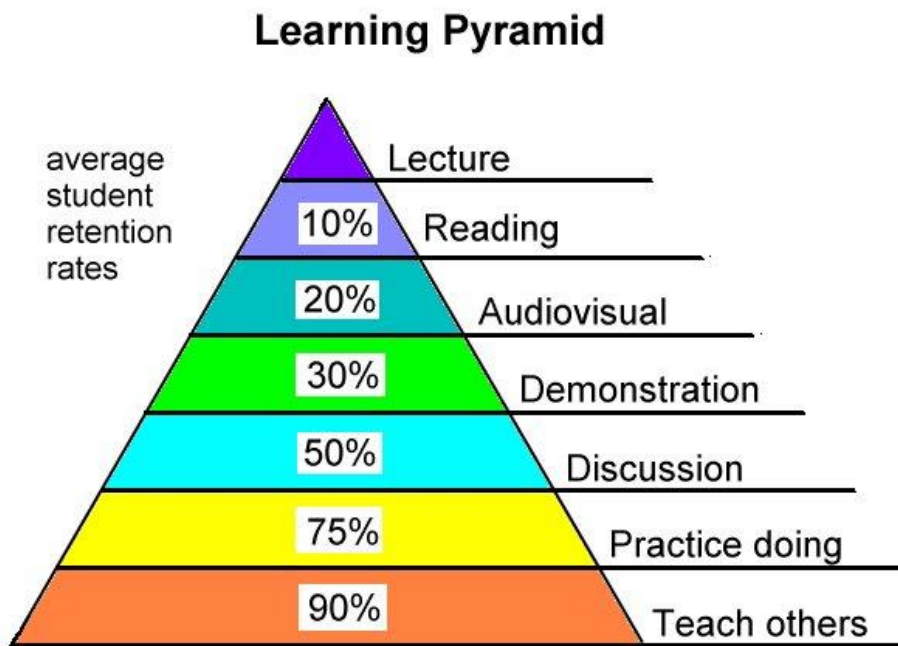
The importance of course materials cannot be over emphasized. In 2002, the Mongolian Judicial Reform Programme (MJRP), a US Agency for International Development funded activity, cooperated with the German aid provider, GTZ (Society for Technical Cooperation), to present courses for all judges, prosecutors, and advocates in the Republic of Mongolia on the country's new Criminal and Civil Codes and Criminal and Civil Procedure Codes, including ethical issues. All judges, prosecutors and advocates in the country had to take the training, which was presented in every province as well as in the capital.

Although the written evaluations submitted by the participants at the end of the course were very positive, MJRP and GTZ wanted to do a post-course evaluation as well, despite the chance that the results would be heavily subjective. Among other questions, the survey asked about the usefulness of the course materials after the programme ended. The response was astounding. "Out of 499 respondents, 46.5% used the materials daily and 31 % weekly." ¹⁴ These results validate the importance of high quality course materials.

5. Audio Visual Aids

¹⁴ See Edwards, Evaluation of Continuing Legal Education Programmes: reaction, Learning Acquisition/Retention & Behaviour Changes, International Organization for Judicial Training Journal, Issue 1 2013, p. 121 -122, <http://iojt.org/journal/page~journal.html>

Trainers should use audio visual aids, such as Power Point, to Reinforce or supplement the presentation. Oral presentation activities reach oral learners. Visual aids reach visual learners. The aids also raise the level of the participants' retention:



Source: National Training Laboratories, Bethel, Maine

Power Point slides can be used by the trainer as teaching notes. They can also be printed out in a format that the audience can use to take notes, thereby reaching the tactile learners. See attached 15 Power Point tips.

6. Monitoring and Evaluation of Courses

The only way to ensure consistent high quality is to monitor and evaluate the programming.¹⁵ There are several ways to do this.

- Have staff or BASL officers attend.
- Mingle with the audience during breaks and get feedback.
- Circulate a written evaluation form at the end of the course (or at the end of each day of a multi-day course or series).
- Send out an evaluation form 6-months later to determine what the audience has retained and whether they have applied their new skills and knowledge.

7. Expansion of Curriculum

¹⁵ Id, pp 113 - 122

A comprehensive CLE curriculum that meets the CLE needs of all the BASL's members should include the following topics, many of which are standard Bar CLE courses around the world:

- Accounting
- Banking
- Bankruptcy & Restructuring
- Communications / Telecommunications
- Competition
- Corporations & Securities
- Employee Benefits
- Employment
- Energy
- Environmental
- Estates & Trusts
- Ethics/Professional Responsibility
- Family Law
- Health Care
- Inheritance and Land Partition
- Information Technology
- Insurance
- Intellectual Property (Patents, trademarks, copyright)
- International
- Law Office Management
- Legal English
- Litigation
- Negotiation
- Municipal Law
- Real Estate and Conveyancing
- Tax

Priorities of new topics can be determined through the annual member survey, focus groups, and interviewing judges about deficiencies they see in court. BASL needs to have a variety of lengths and presentations: short one-off courses, series course that lead to a diploma or certificate, courses aimed at young lawyers, and specialized courses to attract more experienced practitioners. Pricing can be adjusted based on audience level and length.

C. SUMMARY

To improve CLE, the BASL should:

- Expand the CLE curriculum so that it meets all members' needs
- Provide Training of Trainers

- Standardize courses
- Have goals and learning objectives for all courses
- Standardize course materials and have accompanying materials for each course
- Encourage use of audio visual aids
- Monitor and evaluate courses

In support of BASL CLE objectives and for future use by the BASL, the author will be working with the CSI.ROL project and BASL Program Committee to review a few of the current BASL courses according to these recommendations and templates, so as to serve as model CLE course materials.

Attachments

A. Syllabus Template

Writing/editing notes and history

(Date)(Comment/Action)

1. CORE SUBJECT

2. COURSE TITLE (and level)

3. Duration

4. Course description

5. Target audience / Participant profile

Main Audience

Optional Audience

6. Prerequisites to Attend

Mandatory

Recommended (Optional)

7. REQUIREMENTS FOR PARTICIPANTS

(Pre-training assessment(s)/assignment(s)/performance-based process to be completed)

Requirements during training

Post-training assignment(s)/assessment(s)/performance-based follow-up

8. Goal AND LEARNING OUTCOMES

Goal

Objectives/Learning Outcomes

9. MAJOR Course Topics

10. RECOMMENDED FORMAT / METHODOLOGIES

11. COURSE MATERIALS

Support Materials

Reference materials

12. Recommended follow-up courses

13. Recommended trainer(s) Profile

B. Training Manual Template

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2	Heading	X-x
3	Heading	X-x
4	Heading	X-x

1. INTRODUCTION

1.1 Heading

1.2 Heading

1.3 Heading

1.4 Heading

2. SECTION HEADING

2.1 Heading

- Bullets
- Bullets
- Bullets

2.2 Heading

2.3 Heading

3. SECTION HEADING

3.1 Heading

- Bullets
- Bullets
- Bullets

3.2 Heading

3.3 Heading

4 SECTION HEADING

4.1 Heading

4.2 Heading

4.2.1 Subheading

4.2.2 Subheading

4.2.3 Subheading

4.2.4 Subheading

LIST OF APPENICES

Appendix A	Title and Author	Referred to in Paragraph XX
Appendix B		
Appendix C		
Appendix D		
Appendix E		

**ATTACHMENT G. MEMORANDUM TO BASL:
RECOMMENDATIONS FOR THE ESTABLISHMENT OF A
NEW ORGANIZATION FOR THE CONDUCT OF LEGAL
EDUCATIONAL PROGRAMMES – MARY FRANCES
EDWARDS**



USAID
FROM THE AMERICAN PEOPLE

**"Civil Society Initiatives to
Promote the Rule of Law
in Sri Lanka"**

MEMORANDUM

From: Mary Frances Edwards, Consultant, CSI.ROL

To: The Bar Association of Sri Lanka

Date: July 20, 2016

Re: Recommendations for the Establishment of a New Organization for the Conduct of Legal Educational Programmes

The project Civil Society Initiatives to Promote the Rule of Law (CSI.ROL) in Sri Lanka supports the need to strengthen CLE in Sri Lanka and there appears to room for improvement. The BASL's 2014 annual member survey polled members on how well BASL served the members needs in four areas, including CLE. Out of 171 respondents, 29% were dissatisfied with BASL's CLE in their field, 37% were satisfied, and 22% thought the courses were good or very good.¹ In question 6 of the same survey, only 45% of the respondents had participated in a BASL training, seminar or workshop in the last year, and of those only 39% had used the knowledge or skills acquired in the BASL seminar, training or workshop.²

The Executive Committee of the Bar Association of Sri Lanka has approved a proposal to establish a new organization to conduct legal educational programmes, tentatively named Bar Legal Studies College of Sri Lanka (BLSC-SL), to replace the defunct Institute of Advanced Legal Education. This memo outlines comparative perspectives on institutional structures for CLE and provides recommendations for BASL's consideration in establishing such an entity or other CLE apparatus.

A. Institutional Structures for CLE

The 1992 American Bar Association report by the Task Force on Law Schools and the Profession on Legal Education and Professional Development – A Continuum (commonly referred to as the MacCrane Report) emphasized that lawyers' education is a lifelong continuum, starting in academic study of law at university, proceeding through credentialing through an institution such as the Law College of Sri Lanka, and continuing through out a lawyer's life with on-going professional development, provided at least in part by bar associations.³ Academia and bar associations share joint responsibility for a lawyer's lifelong education. It is important to keep in mind that, as the MacCrane Report states, "Law schools and the practicing bar have different missions to perform, and they function in different experiential worlds with different cultures."⁴ Generally, law schools are more theoretical and Continuing Legal Education is more practical and skills based. The MacCrane Report recommended more skills training for lawyers, especially for young lawyers.⁵



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Serving members' needs, partly by presenting CLE, is considered one of the chief functions of a bar association. However, universally, the most typical structure for low cost post-admission legal education providers is a not-for-profit organization, preferably tax-exempt, in which all profits are re-invested in the organization. A guarantee company, as suggested in the proposal to establish BLSC-SL is a potential way to structure that. In the USA, bars cannot be set up as charitable organizations because they lobby on legislation and issues of interest to their members so the CLE provider is a separate, independent non-profit institution.

Not all Bars form a related companies to operation their CLE programs and many still successfully run CLE in-house, but a related institution has now become the most common structure. It should also be noted that in the USA and United Kingdom, there are some for-profit CLE organizations, usually privately owned, but sometimes publically owned. In some cases, a legal publisher is the parent company. Fees to attend CLE presented by for-profit companies are usually higher than non-profit to provide a profit margin and to pay corporate taxes. Non-profit CLE organizations often provide discounts to legal aid and pro bono lawyers and scholarships to lawyers in need; for-profit CLE organizations usually do not. A non-profit CLE organization can also offer free courses if it wants.

Tax exempt status allows the CLE organization to supplement its attendance fees with charitable donations and grants. There would be little point in for-profit status because there is little profit to be made in Continuing Legal Education if the fees stay low enough for the entire profession to have access to the training. For instance, the Illinois Institute for CLE has the following structural history:

“The Illinois Institute for Continuing Legal Education (IICLE®) was formally created as the Institute on Continuing Education of the Illinois Bar in 1961. The Illinois State Bar Association organized the Institute as part of the Illinois Bar Foundation. In 1968, the Institute was reorganized as the Illinois Institute for Continuing Legal Education pursuant to a joint effort of the Illinois State Bar Association and the Chicago Bar Association. IICLE® is now an independent not-for-profit 501(c)(3) corporation dedicated to the professional development of Illinois attorneys.”⁶

BASL can have representatives on the board of BLSC-SL. They can have inter-locking boards, with some BASL board members also sitting on BLSC-SL's board, which will also have members from academia and perhaps the public or business community. For example, the International Bar Association has a separate charitable Foundation, the International Bar Association Foundation, Inc., incorporated in the United States. The Foundation has its own Board of Trustees, but in practice the President, Executive Director, and a few other Council members or officers of the IBA sit on the Foundation Board with Foundation's own trustees, all of whom are IBA members.⁷

If BLSC-SL is housed, as expected, in the BASL building, there will be additional interaction and communication between the two staffs. BLSC-SL will pay rent to BASL for office space, meeting space, maintenance, and utilities, thereby offsetting some BASL overhead. However, if BLSC-SL moves to separate quarters, such as the old offices of

the Institute of Advanced Legal education, which closed in December 2014, it is unlikely BASL will receive any financial benefit except diminution of its own costs to present CLE. BLSC-SL should start out small, using the same facilities now in use for CLE at BASL. Only established, financially secure CLE organizations can support their own facilities. For instance, The National Judicial College of the USA started programming in 1963, but did not have a permanent building until 1972.

B. Continuing Legal Education

The initial function of BLSC-SL is to present Continuing Legal Education (CLE) and Continuing Professional Development (CPD). CLE covers the law. CPD trains the profession on soft skills, such as negotiation, office management, accounting, and Legal English.

Although there are some highly specialized CLE organizations in countries like the USA, Canada, Australia and United Kingdom, bar related CLE organizations offer a rounded curriculum to serve the educational needs of all their members, whether they practice criminal, commercial, family or labour law. The BASL does not currently have a well-rounded curriculum; a frequent comment heard by this consultant is that the BASL CLE is “ad hoc.”

The BASL currently offers CLE in a variety of formats, ranging from short 2-hour courses to 8 week- long series. Participants who complete the longer courses, such as the 8 –week ICT course, receive a certificate. Certificates are an incentive to attendance. Lawyers like to display such evidence of their credentials. The BASL also cooperates with provincial bar associations to law conferences around the country that provide updates on topics of interest.

In a separate document, I have given recommendations for improving quality control and expansion of the current BASL course offerings, regardless of whether there is new institution. These considerations will also be very important to the future financial viability of BLSC-SL or other structure.

C. Diplomas/Advanced Degrees

The Institute of Advanced Legal Education which began in 1999 and closed in 2014, offered Diploma courses. There is interest in reviving the Diploma programmes addition to CLE and CPD courses. Eventually, the BLSC-SL may even link with a university to offer an LLM degree. Diplomas and degrees are incentives for lawyers to continue their education and the sight of a diploma or plaque on a lawyer’s wall inspires client confidence, especially since Sri Lanka does not have mandatory CLE. The logistics of Diploma courses are the same as CLE/CPD, so there are economies of scale provide them. The same courses can be used for both CLE and Diplomas, and even for part of an LLM.

There are two good existing models of how CLE can be the building blocks of a Diploma programme. Although both are in the court and judicial context, the principles are the same.

1. The National Judicial College of the United States is a private not for profit organization with charitable status started in 1963 through a cooperative effort of the American Bar Association and American Judicature Society and the Institute of Judicial Administration. Starting from one 1-month course a year, NJC has grown in to a permanent, year-round institution presenting dozens of courses a year. NJC participants can accumulate course credits in certain specialty areas to receive a Certificate. In cooperation with the University of Nevada, on whose campus NJC is located, participants can register for a Master's programme. They take the same courses as for the Certificate Program, but also take an exam at the end, and attend some special courses taught by the University of Nevada.⁸
2. The Institute for Court Management of the National Center for State Courts in the USA has a similar Certification Program in Court Management. Participants take 6 required courses from ICM's catalogue to become a Certified Court Manager. By taking additional courses, they can become a Certified Court Executive. After that, by doing an independent research project, they can become a Certified ICM Fellow.⁹

D. Staffing

BLSC-SL will need a Director. The more typical model internationally is to have a full time Director with a legal background as well as business management skills. The less typical model is to have a part-time high status person, such as a President's Counsel, as Director for public relations and fund raising purposes and a full time associate Director who supervises staff and activities. See attached job description for a full-time Director.

Attached is a possible organization chart for BLSC-SL with a training unit divided initially between CLE/CPD and Diploma and degree programs. There is also as support unit for logistics, finance, and monitoring & evaluation. The current BASL Program department has four staff; this is the bare minimum with which BLSC-SL should start. The initial concentration should be on CLE and CPD and the Diploma program using the same courses, similar to the NJC model described above. BLSC-SL should be sure that it has adequate support staff for the expanded number of courses to handle non-legal tasks such as registration, attendance records, course manual production, and audio-visual aids. Professional staff members should only perform logistical tasks in emergencies.

E. Funding

Before moving ahead with the BLSC-SL concept, BASL needs to develop a business plan and secure initial funding. Since BASL itself has little money, it will need to look for outside funding sources. To do that, the committee should develop a realistic budget that includes paying rent to BASL for office and meeting space and maintenance. Fees need to be realistic. BLSC-SL should charge at least a modest fee for each course. People don't value what is given away for free, and the more expensive something is the more valuable and high status it seems.

Donors such as USAID and ABA ROLI are obvious sources of start-up funds. The World Bank and the Asia Foundation are other possibilities. Legal publishers are often willing to sponsor events to generate good will. For instance, Lexis/Nexis sponsors some

International Bar Association events. In the USA, donations to a non-profit association with tax exempt status are deductible by the donor. Sometimes law firms will donate furniture and office equipment they no longer need. In Sri Lanka, it is possible for Parliament to qualify an organization as charitable so it can receive donations.

F. Quality Control

The CSI.ROL project is in the process of assisting the BASL in standardizing and improving some existing modules, enhancing the teaching skills of the BASL trainers through a Training of Trainers workshop, and recommending some new modules. The key to making the BLSC-SL successful and self-supporting is to present consistently high quality courses that lawyers *want* to attend.

For instance, to provide consistency among the courses, the BLSC-SL should use a syllabus template (see attached example) to ensure that all the important variables of a course are planned, and that there is a plan in place in case new trainers take over. In particular, it is important for each course to have a goal and learning objectives to ensure that the desired results are achieved. It is also essential that new presenters are trained in adult learning theory, lesson planning, and presentation methods. All courses should be supported by written materials, preferably a manual for each course, following a standardized format. See sample template attached. Distributing high quality course materials is the key to long term CLE success and repetitive attendance. Audience members will not retain all information, but they will refer to a good course manual. In the USA, where nearly all jurisdictions require mandatory CLE, the American Bar Association adopted a Model Mandatory CLE Rule in 1986. Section 7(d) states:

“Before, at, or during the course or activity, each attendee must be provided with course or activity materials, either print or electronic, of a quality and quantity which indicate that adequate time has been devoted to their preparation and that they will be of value to the registrants in their practices.”¹⁰

If CLE ever becomes mandatory in Sri Lanka, it is essential that the course materials be of high quality. It is even more important in a certificate, diploma or degree program that the course materials rise to international standards for accreditation purposes.

Finally, the BLSC-SL should institutionalize course evaluation through written reaction surveys at the end of each program and spot monitoring by staff and board members. First, this is a mechanism for quality control to fine tune programming and maintain a consistent standard throughout the curriculum, which ultimately improves attendance and increases revenue. Secondly, funders need assurance that their donations are being used effectively and for the purposes given.¹¹

G. Challenges

In a country with life-long admission to the practice of law and without mandatory CLE, lawyers need incentive to continue their education and improve their skills. Only by offering high quality CLE will lawyers voluntarily attend, especially if they must pay fees. This means the quality must be higher than the members thought it was in their response to the 2015 annual survey cited above. One prominent BASL member thinks that only

about 10% of the BASL's members have attended CLE courses since taking their lawyer's oath. Voluntary CLE attendance therefore requires a massive attitude shift.

The BASL also runs a risk in splintering off its small but functional CLE programme in to an independent organization, particularly a financial risk. The BLSC-SL cannot rely on donor funding long term. It must become self-sufficient, like the old Institute of Advanced Legal Education.

H. Timeframe

As BASL President Geoffery Alagaratnam said at the June 22nd preliminary meeting, BLSC-SL should start out small. BLSC-SL should determine a deadline by which time it will be self-supporting, perhaps three years. That should be part of its business plan.

Summary

The BLSC-SL should:

1. Organize as a guarantee company, which is a private not for profit entity.
2. Obtain tax exempt status from Parliament.
3. Develop a budget and business plan.
4. Start out small with CLE, then progress to certificates, diplomas and degrees.
5. Enforce quality control through standardization, monitoring and evaluation.

Appendices

Draft Director job description

Representative organizational chart

Sample syllabus template

Sample course materials organization template

**ATTACHMENT H. MEMORANDUM TO BASL:
BACKGROUND FOR DEVELOPMENT OF BASL BUSINESS
PLAN – BARBARA OPOTOWSKY**



**"Civil Society Initiatives to
Promote the Rule of Law
in Sri Lanka"**

To: Geoffrey Alagaratnam

From: Barbara Berger Opotowsky

Re: Background for Development of BASL Business Plan

July 10, 2016

This memorandum is intended to serve as a roadmap to facilitate discussion of current and potential BASL income streams in order to establish a business plan that maximizes the resources available to BASL. Conducting such a review is timely since it would afford a foundation for development of the 2017 budget.

Since I do not know what the programmatic plans are for the next few years and have very limited knowledge of BASL finances, conceptualizing a business plan has been difficult. I thus begin by apologizing for any inaccuracies or things that have already been implemented or discussed before and considered undesirable. With that understanding, I have presented some observations to facilitate a discussion of current and potential income streams in order to establish a business plan.

The strategic plan pointed out that a budget of diverse income streams provides a strong financial foundation, allowing for variances in one income stream in a particular year being compensated for by others. BASL already follows this model with core support from membership dues complimented by a variety of additional income streams and thus has a strong foundation to build on.

Four core areas are discussed and listed below and can be considered a roadmap for development of a business plan. Although listed towards the end, grants are an important area for priority consideration. In addition to the normal need to increase income to meet increased costs and any new programs, BASL must address the expiration in a few months of the grants for the four seconded staff and the CEO. Increased funding will be needed to fund the CEO position and any of the seconded positions determined important to retain. It is significant that BASL implemented the strategic plan recommendation to retain a CEO. In order to maintain the sound management of BASL, it is critical that funding be available to continue the CEO position.

The four core areas discussed are:

1. Current income streams that have potential for increased income.



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- a. Membership dues
 - b. Rent
 - c. Identity cards and car passes
 - d. Sponsorship and advertising
 - e. Programs and events
 - f. Publications
 - g. Grants
2. Potential new income streams.
- a. Affinity programs
 - b. Gala
 - c. Trade show or vendor exhibits
 - d. CLE
3. Evaluation of programs where expenses exceed income.
- a. Post Office
 - b. Library
 - c. Bookshop
4. Expenses

After reviewing the various potential opportunities, it would be advisable to address the one or two areas with the greatest potential impact in the upcoming year with subsequent areas addressed in later years.

1. Current income streams that have potential for increased income.

Although there are many entries on the financial statements under income, just six areas constitute two thirds of all income: membership, investments, rental income (HNB and USAID), income from ID cards, car passes and program income. An increase in any of these categories obviously has the greatest impact.

Individual increases in income cannot be considered in a vacuum but should be considered comprehensively. For example, although it may be appropriate to increase the fee for membership, identity cards and car passes this year, individuals may be buying all three so it may be desirable to implement different fee increases in different years or to bundle all three together for a special rate.

- a. **Membership dues**, the most significant income stream, can be increased by increasing the cost of membership or increasing the number of members. It is my understanding that a dues increase has been considered in the past and has met with strong resistance. In fact a recent attempt to impose a substantial dues increase was withdrawn

after member resistance. Despite this, it is important to once again review the cost of membership. Parallel thought should be given to the value of membership. To the degree that membership is perceived as valuable, concern about the cost is reduced.

The current membership model which allows some members to not pay any dues and for others to pay a one time fee (lifetime membership) and never pay dues again creates a significant barrier to financial growth. Despite the long history of this model, it is important to review.

A few observations:

- **Lifetime membership.** The dual structure of lifetime and annual membership dues is very uncommon and creates a barrier to a robust annual income stream. Recognizing change would be very difficult, it is still important to explore whether it is possible to modify this model. It appears that lifetime membership is a short term benefit to BASL but of significantly lesser long term value. This may seem naïve from an outsider without the reality of BASL history, but it is so significant in terms of long term income that it cannot go unsaid: Consideration should be given to eliminating life membership for new lawyers or, at least, significantly increasing the cost of life membership to make it a less desirable option to annual membership.
- **Non- paying members** are another significant lost opportunity in membership income. It is my understanding that the inability to vote is the only restriction on members who choose not to pay dues. Consideration should be given to requiring all lawyers to pay dues. If that is not possible, greater incentives should be created to encourage members to pay dues. For example only dues paying members could receive a car pass or attend CLE programs.
- **Dues increases.** It is my understanding there has not been a dues increase in a decade other than the increase that was withdrawn. This is probably one of the few things that have stayed the same price for so long. It is generally desirable to have small, regular increases in fees rather than infrequent large increases. Although it is tempting to now seek a large increase in light of the lapse in time since an increase in dues, it would probably make membership acceptance even more difficult. Consideration should be given to a relatively small dues increase for annual dues with the plan of additional increases every two or three years. Alternatively, if one goal is to make annual membership more desirable, it may make sense to provide a substantial increase for new lifetime members without an increase in annual membership dues.

b. Rent (HNB and USAID).

The five year lease with HNB expires in early 2017. In light of the fact that the lease seems to have provided for the same rent for five years, there should be a good opportunity for a substantial increase. The termination of the USAID grant in the fall and the elimination of their payment of rent creates a potential for a shortfall in the ensuing year unless other income is generated.

c. Identity cards and car passes.

It appears the fees for these benefits have not been increased for a number of years. It is recommended that a small increase be considered every few years.

d. Sponsorship and advertising.

It is my understanding that BASL receives sponsorship and advertising income for some of its events and publications but the information is not aggregated in the financials and the totals are not available. It appears each program solicits for its particular event. A more coordinated approach could increase revenue from these categories. For example, offering a sponsor a package of opportunities of a number of programs or publications with decreased costs based on volume could increase each sponsor's support. This could provide the financial foundation to continue to produce and publish good quality research and analysis after the termination of the USAID grant that has funded some publications. Staff support could be helpful in coordinating this effort.

e. Programs and Events.

BASL has a wide variety of programs and events. It appears that each of these occur independently of the others and are led by the particular officer, staff or committee that is generating the event. It would be productive to collect the income and expense statements of all programs and events for the past year and analyze what factors have contributed to success. It is important to maintain the talent of the lawyers who oversee these events but to it is also important to have them be coordinated by a staff person. Successes can be shared and scheduling of varied events can be coordinated to maximize membership participation. Listing of programs and events together in the financials with their total income would help convey the importance to the overall budget.

f. Publications.

The situation with publications is similar to that of programs. BASL has many successful publications, each produced by a different group of members. It would be productive to aggregate the information of each of these publications to ascertain what contributes to success. Listing of publications together in the financials together with a total income would help convey their importance to the overall budget.

g. Grants.

BASL has been extremely effective in obtaining international grants to support and enhance its activities. The expiration of the USAID grant in the fall presents a substantial challenge. The secured staff has provided an extraordinary resource. Given the impending USAID grant expiration, it is important to explore whether there is additional potential grant income available.

2. Potential New Income Streams.

BASL has a wide variety of programs that touch on most possible sources of income. Thus, emphasis will be on enhancing current income streams rather than on totally new avenues of income. A few additional areas that may be considered follow:

a. Affinity Programs.

Affinity programs offer members a discount for a service, e.g., the current discount offered on the cost of a hotel. The program can also be a source of revenue for BASL. Under some affinity programs, based on the volume of business the members generate, the vendor pays a royalty fee to the bar association. These programs can both reinforce the value of membership and generate income to BASL. It is my understanding that BASL has affinity programs that benefit members but do not provide revenue to BASL. A first step may be to review the affinity programs offered by the ABA. If any are with international companies with services that may be of interest to BASL members, the ABA can offer contact information to explore the possibility of extension to Sri Lanka.

b. Gala.

A major gala honoring lawyers or judges is a significant source of income for many Bar Associations. I do not know if this is part of the culture in Sri Lanka but may be something to consider in the long term.

c. Trade show or vendor exhibits.

The same companies that provide goods and services to lawyers and seek advertising and sponsorship opportunities from BASL, would be receptive to a trade show or exhibit geared to lawyers. In the United States, there is a very successful business called Legaltech that provides a comprehensive trade show of technology products for lawyers. The ABA has trade shows at its annual meeting. Given Suranee's expertise from managing trade shows, the idea has particular appeal. But, this is an ambitious undertaking and would probably take too much of Suranee's time to allow for other functions to be done. In the near term, a modified version of this may be considered – in conjunction with other events, appropriate opportunities can be taken to showcase one, two or a few vendors. Where events are on site at BASL, space constraints may make this difficult but it is an avenue that could be productive.

d. CLE.

I am not aware whether the current CLE programs include a fee and am thus including this category under new income streams. For many bar associations, CLE is the primary source of capacity building for the bar and a very significant source of income. A comprehensive CLE program includes programs for the newly admitted attorney and the experienced and provides both substantive legal information and skills training.

CLE programs are most successful in jurisdictions where the governing body requires lawyers to obtain a certain amount of legal education each year. If BASL could work with the appropriate governing body to require CLE, it could have a substantial impact on the program.

CLE is an area where the complementary abilities of the membership and staff are critical. The membership have the substantive knowledge to conceptualize and deliver the programs, the staff has the infrastructure to coordinate all activities ranging from materials to location to scheduling and record keeping. To develop a comprehensive CLE program, it is important to invest in staff support.

Given the extensive network of outstation bars around the country, it would make an enormous difference to couple initiation of a comprehensive CLE program with an investment in technology. In person programming provides many benefits but it is highly unlikely that a broad range of programs can be made available all across the country. And, many Columbo members may not be available at the time of a particular presentation. Thus technology should be explored for on demand viewing of programs.

3. Evaluation of Programs where expenses exceed income.

Following are three programs where expenses exceed income. If, in fact, the provision of each service is considered valuable despite the excess expense, there is no need to address it. If that is not the case, a review of fees or even the desirability of continuing the service should be considered. For purposes of simplification, salaries are set at 470,000 Rs a year – a salary of 360,000 Rs a year plus 30 % for the costs of EPF, ETF, allowances, overtime and bonuses.

a. Post office.

325,000 Rs income. The expense of two staff at an annual cost of 940,000 Rs, is significantly more than the income.

b. Library.

There is no reported income for the library. The cost of library maintenance, 238,000 Rs, and two staff, 940,000 Rs, is 1,178,000 Rs annually. The library thus operates at a significant net expense.

c. Bookshop.

Reported net income from the bookshop is 467,529 Rs. When offset by the annual cost of one staff member of 470,000, the bookshop operates at a very small loss.

4. Expenses

It is obviously important to closely monitor and manage expenses and all major expense categories should be reviewed annually. But, there is a limit to what can be accomplished in this area. An organization cannot grow by managing expenses – increased income is the real key and expenses that are an investment in efficiency and growth, e.g., technology or staff, are critical.

The most significant expense is staff salaries and related expenses (EPT, ETF, allowances, overtime and bonuses) which constitute about 40% of overall expenses. This percentage is consistent with that of many bar associations. Staff is not only an expense but is also the most important investment that an association can make. A motivated, professional staff is critical to the effectiveness of any bar association. It is important that individual staff talents be maximized and investments be made in staff training and compensation. The scheduled study of staff by an outside consultant should be a benefit to the CEO in maximizing the effectiveness of staff.

* * * * *

I would like to suggest a next step in this process. Development of a multi year business plan is an ambitious initiative and may not be the best use of resources. Development of the next year's budget is the equivalent of developing a business

plan for the next year and has the benefit of needing to be done and being more concrete than a multi year business plan that can be developed later.

BASL has had the benefit of a number of consultants addressing different parts of operations over the past year. The clarification of next year's program as reflected in the budget is a good place to incorporate what has been generated by the consultants.

Collaboration by the President, Treasurer and CEO on the 2017 budget would have a variety of benefits:

- Directing the CEO to do the first draft of the budget, in collaboration with the President and Treasurer, would be a significant step in reinforcing the appropriate role for the CEO to play. Working together would reinforce the substantive nature of the relationship rather than the administrative aspect of the CEO role.
- Substantial information is needed to properly budget. Financial information has been siloed and has not always been easily accessible. Collaboration would facilitate information sharing. To the degree there are gaps in information, e.g., the accuracy of the data base, the budget process will reveal them.
- * Staffing is a major element of budgeting. Since the HR review will probably be conducted shortly, those findings can be incorporated into the budgeting for staff.

I would be happy to work with you in any way that you would find helpful.

**ATTACHMENT I. REPORT FOR THE BASL ON
RECOMMENDATIONS FOR ENHANCING ETHICS OF THE
LEGAL PROFESSION – ELLYN ROSEN**

REPORT FOR THE BAR ASSOCIATION OF SRI LANKA
BY
ELLYN S. ROSEN, DEPUTY DIRECTOR
AMERICAN BAR ASSOCIATION
CENTER FOR PROFESSIONAL RESPONSIBILITY

INTRODUCTION

The following are the recommendations of Ellyn S. Rosen, Deputy Director of the American Bar Association Center for Professional Responsibility. These recommendations were developed after a review of relevant rules and statutes relating to the regulation of the Sri Lankan legal profession, interviews with leadership, members and staff of the Bar Association of Sri Lanka, and review of the Bar Association's website.

I am grateful to have worked on this project with Jennifer Rasmussen, Sehar Razziudin, and Angel Sharma from the ABA Rule of Law Initiative, Asia Division, and thank them for all of their guidance and assistance. Many thanks to Tiernan Mennen, Nayomi Wickramaratne, Vasana Wickremasena, Nadee Gunaratne, Prakalathan Thuraisingam, and Umeshika in Colombo, for your gracious hosting of me and for all of help while I was in Colombo. I would also like to thank all of the dedicated lawyers and legal educators from the Bar Association of Sri Lanka, the Law College, and the Faculty of Law with whom I met to discuss legal ethics and lawyer discipline in Sri Lanka. It is my sincere hope that the recommendations in this Report will assist the Bar Association of Sri Lanka and others in the continuance of their important work to promote legal ethics and professionalism, as well as to improve the lawyer disciplinary process. I am available to answer any questions and for follow-up assistance and can be reached at ellyn.rosen@americanbar.org.

THE RULES FOR THE CONDUCT AND ETIQUETTE OF ATTORNEYS AT LAW

Recommendation 1: The Bar Association of Sri Lanka Should Study and Propose Updates to the Supreme Court Rules for the Conduct and Etiquette of Attorneys at Law.

In 1988, the Supreme Court of Sri Lanka, pursuant to its authority under Article 136 of the Sri Lankan Constitution, adopted the Rules for the Conduct and Etiquette for Attorneys-at-Law. These are the ethics rules that apply to every lawyer admitted to practice by the Supreme Court of Sri Lanka. Generally, the Rules address topics including, but not limited to, the acceptance of instructions by counsel, post-retainer conduct, conflicts of interest, confidentiality, fees, withdrawal from representation and termination of the attorney-client relationship, advertising, and touting.

No set of professional conduct rules is intended to be exhaustive. They exist in a larger context, where court rules, statutes and other law, both substantive and procedural, shape the lawyer's role and behavior.¹ It is important that rules of professional conduct keep pace with changes in the law, society and the profession. When rules of professional conduct become dated, both lawyers

¹ ABA MODEL RULES OF PROFESSIONAL CONDUCT SCOPE P [15].

and the public are not optimally served. In order to ensure notice to the profession as to what conduct is considered ethical and which acts or omissions can result in discipline, it is crucial that a jurisdiction's rules of professional conduct be comprehensive and current. It is also important that the professional conduct rules be comprehensive and up-to-date to ensure optimal education of law students on these issues, which will further enhance an ethical infrastructure in the Sri Lankan legal profession.

The economy in Sri Lanka is changing. In a number of respects, technology is driving that change, in particular in the more urban areas. Efforts are also ongoing to ensure that technology is reaching the rural areas of the country. Legal practice has become increasingly globalized, which means that lawyers from other countries will increasingly have clients doing business in Sri Lanka, and Sri Lankan lawyers will have reason to follow their clients to provide services in other countries. Given its location in the Asia-Pacific region, I think it is fair to say that Sri Lanka is poised to play an increasing role in the global legal services marketplace. Most of those with whom I spoke agree.

According to those with whom I spoke, the demographics of the legal profession in Sri Lanka have also changed and the evolution of technology has created tension between the strictures of the 1988 Rules and the reality of modern day legal practice. There has been a significant increase in the number of new lawyers entering the profession. I was advised that many Junior Lawyers have been unable to secure the necessary work in the chambers of a Senior Lawyer. I was told about concerns regarding the high number of unemployed and underemployed Junior Lawyers who engage in touting to get clients. Due to the Rules' prohibitions on advertising, these lawyers are hindered from being able to market themselves. I was also advised that there is anecdotal evidence that a percentage of Senior Lawyers view the increasing Junior Lawyer population as a threat to their business, and that, as a result, some Senior Lawyers are behaving in ways that some perceive as unprofessional or in conflict with the Rules. Senior Lawyers also are concerned about how the Rules prohibit them from marketing their services in a more modern legal practice environment. The British system, upon which I was told these Rules were modeled, has evolved to loosen the restrictions in the area of advertising.

Another frequent topic of discussion related to increases in the mishandling of client monies, in particular in conveyancing matters. I was advised that these cases comprise an increasingly significant portion of the Bar Association of Sri Lanka's disciplinary docket. Currently, Rule 28 of the Rules of Conduct and Etiquette for Attorneys-at-Law provides only that lawyers shall not appropriate client funds held by the lawyer in trust, absent client permission. There are not, however, additional Rules that prescribe how lawyers must hold such trust funds. Many other countries have such rules, and it may now be time for Sri Lanka to enhance the prohibition in Rule 28 with additional requirements regarding the manner in which such monies are held by lawyers.²

Because the Rules for the Conduct and Etiquette for Attorneys-at-Law have not been updated or revised for many years, I recommend that the Bar Association of Sri Lanka (BASL) engage in a comprehensive study to determine where the Rules should be updated, and develop proposed

² See, e.g., ABA MODEL RULES OF PROFESSIONAL CONDUCT R. 1.15. See also http://docs.flsc.ca/INTLegalRegulators20150720_Proposals_For_Alternatives_To_The_Handling_Of_Client_Money-c.pdf, and <http://docs.flsc.ca/ICLRLawyerTrust-Accounts.NHupkes.pdf>.

amendments for consideration by the Supreme Court of Sri Lanka. BASL should also consider whether to add explanatory comments to the Rules, similar to the ABA Model Rules of Professional Conduct. The committee/commission discussed below can advise BASL leadership on this subject.

I believe this will be an important project for BASL for a number of reasons. As noted above, part of being a modern and ethical legal profession is the ability to adapt to change and to ensure that the rules governing the ethics of lawyers also evolve appropriately. I think it is fair to say that many with whom I spoke, law students included, are struggling with how to best address the tension between adherence to the longstanding traditions that permeate the Sri Lankan legal profession (e.g., the Junior/Senior dichotomy and the “ceremonial”/professionalism behaviors associated with that dichotomy), and the modernization of the country that presents new opportunities for lawyers and those who need their services.

BASL is the optimal entity to undertake this important work given its enduring efforts to promote high levels of ethical conduct in the Sri Lankan Bar and its regulatory role under the disciplinary procedural rules. I believe that this is a project that will help sustain BASL’s leadership role in this area of law and its utility to the Sri Lankan legal profession and the public. This is a forward looking project, and so it has appeal to young lawyers who will be the future life blood of BASL. Thus, there also is a membership sustainability impact to undertaking this project.

In furtherance of sustaining good bench-bar relations, should BASL decide to implement this recommendation, I suggest that its leadership communicate with the Supreme Court of Sri Lanka about this initiative at the outset. In my experience, in many countries where the courts possess the regulatory authority over the legal profession, proposed changes to applicable rules of professional conduct most often originate from the bar associations and law societies. The courts, whether they adopt some or all of the proposed changes, are grateful for the time and efforts taken by the bar in studying the subject and developing proposed changes.

If BASL agrees with this recommendation, I suggest that the leadership form a committee or commission tasked with its implementation. This committee/commission should be comprised of lawyers with knowledge of the subject matter from a diverse array of experience, practice areas, and firm size. There should be geographic diversity, as well as other forms of diversity including gender and age. In addition, judges and academics should be appointed to serve as well as public members. The review process should be transparent, with public hearings and opportunity for frequent input and comment on draft proposals.³ There will be a need to conduct not only significant legal research, but also outreach to the profession and public in Sri Lanka. The professional conduct rules of other jurisdictions will be useful. I, and the American Bar Association Center for Professional Responsibility, can provide available resources to BASL in furtherance of this project should BASL desire. The Center’s website is replete with information regarding information from both the U.S. and global perspective.⁴ The International Conference

³ The recommendations below relating to enhancement of BASL’s website will assist the project in this regard. BASL’s website should be used to make information about the work of the committee/commission available.

⁴ See, http://www.americanbar.org/groups/professional_responsibility.html.

of Legal Regulators (ICLR) is also an excellent resource and BASL leadership should consider joining ICLR.⁵ The next ICLR program is in October 2017, in Singapore.

⁵ See, <https://iclr.net>.

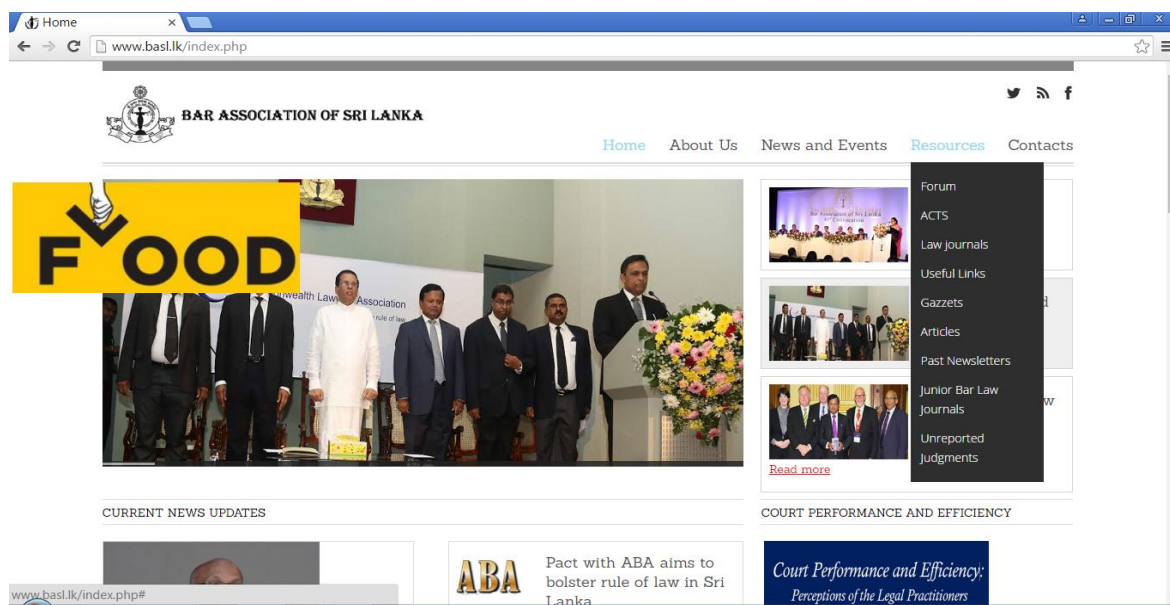
TRANSPARENCY AND ACCESSIBILITY

The purpose of lawyer discipline is to protect the public and the administration of justice and to enhance the integrity of the profession. Two of the primary characteristics of an optimal lawyer regulatory system are accessibility and transparency. Both enhance public trust and confidence in the regulatory system as well as in the legal profession. In order to accomplish these goals, the entity responsible for the disciplinary function must be easy to find and accessible to the public, both physically and electronically. Enhanced efforts by BASL to optimize transparency of and accessibility to its lawyer disciplinary functions will benefit the public and Sri Lankan lawyers, as well as BASL. These efforts, as described in detail below, will provide BASL members with a centralized source of crucial resources and reason to remain active in the Association. They will also enhance BASL's reputation as the public and profession will see BASL's commitment to accountability, and a fair and effective system of lawyer regulation. The recommendations set forth below are intended to offer BASL options for optimizing transparency and accessibility. Many of these actions, with a fully operational, resourced, and supported website, should be relatively simple to complete, as are further steps to ensure currency of information. Efforts to fully resource and complete development of the BASL website are ongoing.

The recommendations set forth below are not intended in any way as a criticism of BASL's website or of those involved in the efforts to develop and support that site. That BASL's leadership, members and staff are working hard and diligently to address significant challenges facing the legal profession and the public in Sri Lanka, as well as to support and enhance the ethical culture of Sri Lankan lawyers, is clear.

Recommendation 2: BASL Should Provide on Its Website a Centralized Repository of Information Regarding Regulation of the Sri Lankan Legal Profession

BASL leadership and staff should work to promptly make the BASL website the "go-to" resource for lawyers, law students, and the public on issues relating to lawyer ethics, professionalism, and regulation. This important work should be able to be done simultaneously with the other ongoing efforts to optimize resources for and support currency of the BASL website. Currently, many such resources are not available on the site, and those that are available are not easily located. A screenshot from BASL website, taken on May 20, 2016, is demonstrative.



I recommend that those responsible for the BASL website create and populate with content a new tab entitled something akin to “Lawyer Ethics, Professionalism and Regulation” along with a drop-down menu delineating categories of resources so that users can easily identify where to seek and obtain information on these topics. BASL should consider including categories of information for the profession and the public analogous to that illustrated in the attached screenshots from the websites of other countries’ bar associations and lawyer regulators appended as Appendix A.

This new section of the BASL website should make available in an organized manner all relevant constitutional provisions, statutes, rules and regulations relating to the legal profession, including for admission to the bar and the disciplining of lawyers. The Supreme Court Rules for the Conduct of and Etiquette for Attorneys-at-Law and the Attire of Judges and Attorneys at Law Rule should constitute a separate category of information with an appropriately descriptive title such as “Lawyer Professional Ethics and Attire Rules.” Supreme Court disciplinary opinions for at least the past 15 years should be viewable from the BASL site. These opinions will serve as a useful educational tool for Sri Lankan lawyers.

BASL should consider whether it wants to make available on this part of the website a roster of the members of the Ethics Committee and the Professional Purposes Committee. It is also recommended that this new section of the website include a menu entry setting forth the relevant laws relating to the practice of law in Sri Lanka by foreign lawyers. A section containing links to global ethics and professional responsibility resources will also be useful.

With regard to the public specifically, there should be in this section of the BASL website a “frequently asked questions (FAQ)” resource that sets forth in narrative form, in all appropriate languages, a description of the Sri Lankan lawyer disciplinary system, as well as a description of the simple and direct manner by which complaints against lawyers can be made to BASL and to

the Supreme Court of Sri Lanka.⁶ BASL staff, in collaboration with the Chairs of the Professional Purposes Committee and the Ethics Committee, can develop content for this consumer friendly resource. The type of information in the FAQ should include, but not be limited to: what kinds of complaints against lawyers that BASL can and cannot handle; a description of BASL's disciplinary process including an explanation of the differences between roles and functions of the Ethics Committee and the Professional Purposes Committee; a description of the Supreme Court's disciplinary process and its interrelationship with BASL's process; what complainants should expect once a complaint has been filed, including time guidelines for each stage of the process; what types of sanctions or other remedial steps are available; how the disciplinary process interacts with the civil and criminal justice system; and the nature of applicable confidentiality rules. I recommend that the flow charts describing the disciplinary system in Sri Lanka that were part of the materials from BASL's Training Workshop on Professional Ethics should be included, as those are very helpful documents.

In addition, BASL should develop and make available for download and placement in print form elsewhere throughout the country a generic complaint form. The use of this form should be encouraged, but not required for a complaint to be considered. BASL leadership may wish to discuss with the Supreme Court its use of the same complaint form for situations where complaints are made directly with the Court. The development of this form will help complainants better organize their thoughts, assist in the collection of relevant information, help in the screening of complaints for summary dismissal purposes, and assist in the investigation of matters that warrant such action. The creation of the form will also be useful for the enhanced recordkeeping procedures discussed in the full Report to be submitted shortly. The complaint form should be available in any other languages reflective of the Sri Lankan population. Information sought in the complaint form should include, but not be limited to the following:

- (1) the name, address, telephone number and email address of the individual(s) filing the complaint or other information as to where the complainant can be contacted;
- (2) the name, address, telephone number and email address of the lawyer against whom the complaint is being filed;
- (3) an indication of whether the lawyer who is the subject of the complaint currently represents the complainant, whether the lawyer no longer represents the complainant or whether the lawyer never represented the complainant;
- (4) a statement as to whether there is a pending court case and the case number if known; and
- (5) the amount of any fee paid to the lawyer and whether there exists a written fee agreement.

In addition, the form should include:

- (1) a general checklist of areas of law so that the complainant can "check off" which area of law the complaint involves;
- (2) a general checklist of the types of alleged misconduct so that the complainant can identify which are at issue;

⁶ It would also be useful, if resources are available, to create a pamphlet with similar information for distribution in courthouses and BASL outpost locations.

- (3) a request that relevant documentation supporting the complaint be provided (where possible, complainants should be advised to provide copies of documents so that they retain control over the originals, such as deeds); and
- (4) space for the complainant to describe in narrative form the allegations against the lawyer.

Some examples of complaints forms are attached to the email conveying this section of the Report.

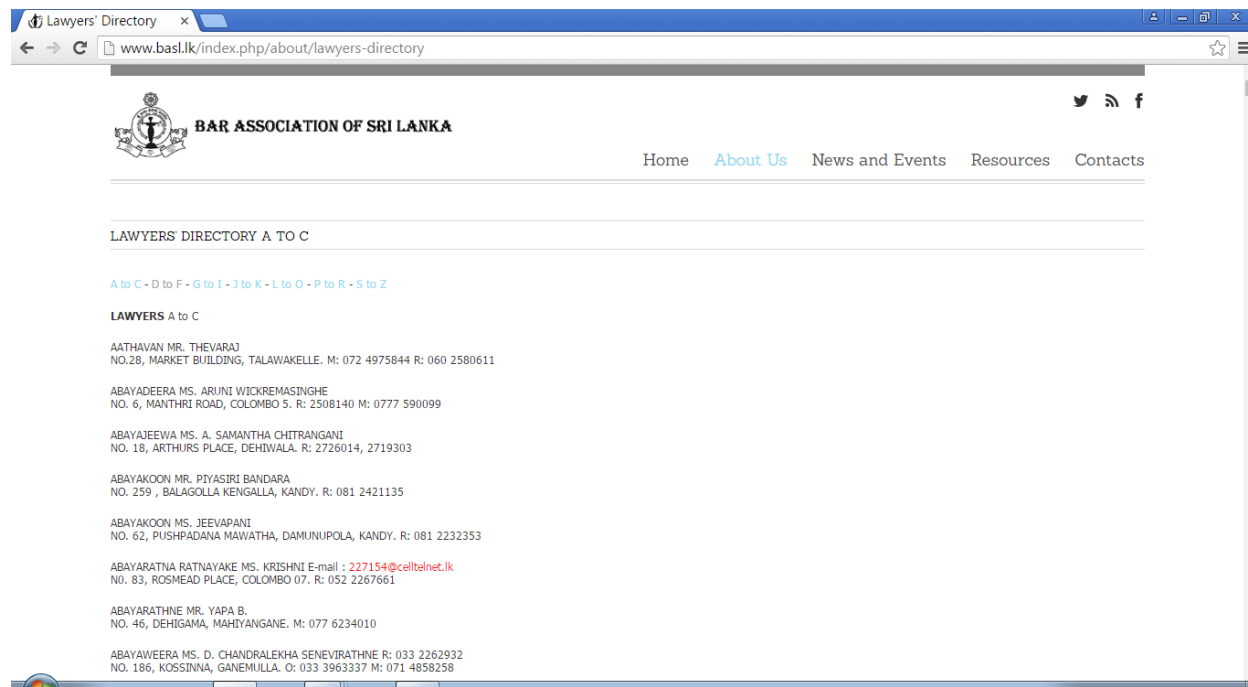
Recommendation 3: BASL Should Publish Annually on Its Website a Report That Highlights Its Disciplinary Work and Ethics Education Efforts, and BASL Should Provide Such Report to the Supreme Court

Outreach to and education of the profession is an important way in which BASL can help fulfill the lawyer regulatory mechanism's goal of public protection and enhance the reputation of BASL as an effective part of that regulatory system. An equal priority should be outreach to the public. A fairly simple and cost-effective way to accomplish this would be for BASL to develop and publish an annual report about its activities in this area. Providing information about the lawyer regulatory process to the public and the bar demonstrates accountability of the profession and promotes increased public confidence in it and in BASL. The annual report also offers an opportunity for BASL to detail the accomplishments of its members and committees in this area, identify improvements in the system, and explain any new initiatives.

The annual report should include an overview of how the discipline process works and BASL's role in it, identify the members of the Ethics Committee and Professional Purposes Committee, offer comprehensive statistical information about the disciplinary caseload - the nature and number of complaints received and resolved, how long matters were pending before resolution, data showing the total number of complaints filed and the percentage of complaints for various areas of practice, the types of misconduct alleged (e.g., the percentage of total complaints received that alleged mishandling of funds, neglect, conflict of interest, etc.), as well as the number of cases that were referred to the Supreme Court for suspension or removal proceedings. Summaries of any Supreme Court disciplinary opinions issued during the year would be helpful to educate the public and demonstrate accountability of the system. The report should include a description of its outreach efforts to the bar and the public, speaking events, CLE presentations, and articles published by leadership and members on the topics of ethics, professionalism and lawyer discipline. With regard to statistical information, another recommendation in the Report will assist BASL with its ability to develop such data and derive appropriate reports.

Recommendation 4: BASL Should Consider Enhancing Its Online Directory of Lawyers

There is an alphabetical directory of Sri Lankan lawyers on BASL's website. This directory provides the name, address, telephone number, and where available, email address for the lawyer.



BASL should consider developing a plan to make enhancements to that directory, consistent with the current rules regarding touting and advertising, to ensure that the public has available to it optimal information about Sri Lankan lawyers. First, steps should be taken to ensure that the roll of licensed attorneys maintained by BASL is as complete as possible and remains current. Some concerns about the completeness and currency of the roll were expressed in advance of the training session that I conducted for the Professional Purposes Committee.

The public should be able to know whether a Sri Lankan lawyer is in good standing with respect to his or her licensure. Currently, it is not clear from the directory page that the lawyers listed therein are all in good standing with regard to their licenses. Making such information available would not appear to constitute advertising or touting and is protective of the public because it would enable someone to know that a person that they are thinking of employing is a licensed lawyer in good standing. I suggest that consideration be given to noting a lawyer's public disciplinary history, including re-enrollment, and the practice areas in which the lawyer engages. It would seem that, if BASL is creating, posting and controlling the contents of the directory, and because this information would be made available equally for all lawyers, that the risks associated with and concerns about touting and advertising would not exist.

In studying whether and how to enhance the BASL online lawyer directory, review of the directories of other countries' regulators and bar associations will be useful. Screen shots from some of those countries' websites are attached to this Report as Appendix B. The Find a Lawyer

function from the Law Society of Singapore may be particularly helpful, as it appears that Singapore has touting and advertising rules that are also strict.⁷

⁷ See, e.g.,

<https://www.lawsociety.org.sg/forPublic/FindaLawFirmLawyer/FindaLawFirmLawyer.aspx>;
<https://www.lawsociety.org.sg/forPublic/FindaLawFirmLawyer/FindaLawyer.aspx>.

See also, <https://www.lawsociety.com.au/community/findingalawyer/findalawyersearch/>;
http://www.malaysianbar.org.my/find_a_lawyer.html; <http://solicitors.lawsociety.org.uk/>.

PROCEDURES

Recommendation 5: BASL Should Create Guidelines For the Conciliation Process, Develop More Robust Mechanisms to Help Members With Law Practice Management, and Develop a Plan to Offer Enhanced Mentorship Opportunities

During my visit, a number of interviewees advised that the Professional Purposes and Ethics Committees endeavor to, and do, “settle” complaints against lawyers by way of conciliation. That the BASL Committees utilize this practice is laudable. Generally, in the United States, resolving certain complaints this way, after some investigation and prior to a hearing, is recommended. However, for the reasons set forth below, I suggest that BASL consider limiting the use of the conciliation process to appropriate cases and develop guidelines to assist the Professional Purposes Committee and Ethics Committees determine which matters are appropriate for settlement prior to an inquiry panel hearing.

As described during my visit, the conciliation process appears to consist in part of the lawyer admitting that he or she violated the Code of Etiquette. If a matter is resolved via conciliation, the complaint is deemed closed, regardless of the type of misconduct at issue. For example, I was told of matters that were resolved by conciliation that involved lawyers who took for their own personal purposes, without client knowledge or consent, money paid by the clients to purchase stamps to be affixed to the clients’ deeds. In those cases the lawyers admitted “guilt” and returned to the clients the monies wrongfully taken and used by the lawyers. Despite the serious nature of that misconduct (a seeming violation of Rule 28 of the Code of Etiquette), the matters were deemed satisfactorily resolved because the clients were repaid, the lawyers admitted fault and apologized, and the clients were satisfied with the outcome (pursuing the lawyers in court would be very difficult). These lawyers were not referred to the Supreme Court for suspension or removal proceedings.

The primary concern raised by utilizing the conciliation process for complaints involving these types of serious misconduct is that even though the clients may be satisfied with the outcome, lawyers who have engaged in what amounts to the conversion or theft of client monies, a violation typically warranting suspension or revocation, are permitted to return to practice and to be entrusted with client funds again. The public remains at serious risk of harm in situations like this, as does the integrity of the profession.

Pursuant to the Rules adopted by the Supreme Court for admission to the Sri Lankan Bar, an applicant must be shown to be of good repute.⁸ It could be easily argued that a lawyer who has engaged in serious misconduct such as the conversion of client funds, touting or engaging in serious conflicts of interest is no longer of good repute and no longer worthy of retaining the privilege of practicing law, at least for a period of time.

In the United States, the types of complaints that are subject to resolution via diversion from the disciplinary system, akin to conciliation, involve lesser misconduct. Lesser misconduct is conduct that does not warrant the imposition of a sanction restricting the lawyer’s license to practice law as suspensions and removal do. When used properly, the diversion process allows the disciplinary

⁸ See, e.g., Supreme Court Rules 68 and 69.

authority to focus its resources on cases involving more serious misconduct and allows lawyers to take remedial steps so as to avoid future complaints. This is good for clients and for lawyers.

I suggest that BASL leadership, with input from the Professional Purposes and Ethics Committees, discuss and develop Guidelines for the settlement process, and also consider expanding conciliation, as described below, to include referring a lawyer to a remedial program for completion when appropriate. Such Guidelines should include standards setting forth the types of cases that are appropriate for settlement prior to inquiry panel proceedings, and which are not. For example, in a number of U.S. jurisdictions, complaints against lawyers that involve lesser misconduct can be resolved by referral to an “alternatives to discipline” or “diversion” program (see attached chart of U.S. jurisdictions with such programs). An alternatives to discipline/diversion program may include having the lawyer agree to submit to fee arbitration, law practice management assistance, continuing professional development programs and ethics school. Lesser misconduct, as set forth in the ABA Model Rules for Lawyer Disciplinary Enforcement⁹ and noted above, is conduct that would not warrant a sanction restricting the lawyer’s license practice.

Under the ABA Model Rules for Lawyer Disciplinary Enforcement, conduct is not “lesser misconduct” if any of the following apply:

1. The misconduct involves the misappropriation of funds;
2. The conduct causes or is likely to cause substantial prejudice to a client or another person;
3. The lawyer has been disciplined publicly within the prior three years;
4. The conduct is the same as that for which the lawyer was publicly disciplined in the last five years;
5. The misconduct involves dishonesty, fraud, deceit or misrepresentation;
6. The misconduct is of a serious criminal nature; or
7. The actions of the lawyer are part of a pattern of misconduct.¹⁰

In addition, if a lawyer has demonstrated a selfish or dishonest motive, submitted false evidence to BASL in defense of the complaint, or obstructed the proceedings, conciliation should be not be considered. Similarly, mitigating factors may qualify a matter for conciliation in borderline cases. If, as part of conciliation, a lawyer is referred to an educational program, fee arbitration, law practice management or other type of program, BASL should wait until the lawyer has successfully completed the program and provided proof of such successful completion before closing the file.

I recommend that BASL consider the following as components of an enhanced conciliation process in appropriate cases:

- 1) In addition to determining whether the conduct falls within the parameters of “lesser misconduct” the Ethics and Professional Purposes Committees should consider the following factors in deciding whether to resolve a case via conciliation:

⁹ Rules 9(B) and 11(G) of the Model Rules for Lawyer Disciplinary Enforcement are attached.

¹⁰ ABA MODEL RULES FOR LAWYER DISCIPLINARY ENFORCEMENT R. 9(B).

- a) whether the sanction for the alleged misconduct, if proven, is likely to be no more severe than reprimand or censure;
 - b) whether participation in the program will likely benefit the lawyer and accomplish the program's goals;
 - c) whether aggravating and mitigating factors exist; and
 - d) whether conciliation has already been tried;
- 2) The Ethics and Professional Purposes Committees should negotiate with the lawyer a contract, the terms of which should be tailored to the unique circumstances of each case. The agreement should be signed by the Chair of the relevant BASL Committee and the lawyer, and should set forth with specificity the terms and conditions of the plan. The contract should provide for oversight of fulfillment of the agreement, including the reporting of any alleged breach. Such an agreement ensures accountability by the lawyer. The contract should include a specific acknowledgment that a material violation of a term of the contract renders voidable the lawyer's participation and the matter will then proceed before an inquiry panel. The contract should be amendable upon agreement of the lawyer and the Chair of the relevant BASL Committee. The agreement should also provide that the accused lawyer pay all costs incurred in connection with the contract;
- 3) The lawyer should have the right not to participate in the conciliation program. If he or she chooses not to participate, the matter should proceed to be investigated, dismissed if appropriate, or referred for an inquiry panel proceeding;
- 4) The contract should be terminated automatically upon successful completion of its terms and the complaint file closed. Such closure should constitute a bar to further disciplinary proceedings based upon the same allegations; and
- 5) A material breach of the contract terminates the lawyer's participation in the program and disciplinary proceedings may be resumed or reinstituted.

A key component to this recommended enhancement of the conciliation process, and one which provides increased benefits to BASL members and the public, is the development and implementation of a robust law practice management program. BASL may also want to, at the same time, enhance its mentorship programming for Junior Lawyers. A good law practice management program teaches and reinforces sound business practices (e.g., with regard to billing practices and the handling of client funds), as well as sound practice management skills such as maintaining a current calendar, instituting a conflicts checking mechanism, proper file maintenance and the use of retention letters. These preventive programs have proven very successful in the U.S. in helping lawyers avoid disciplinary problems and become better practitioners. The ABA Center for Professional Responsibility and Law Practice Division can provide assistance to BASL with regard to the development of these preventive programs.¹¹

Such programming, combined with an enhanced mentorship initiative, could also be particularly beneficial in Sri Lanka where, I was told, a large number of Junior Lawyers are unable to find a

¹¹ See, e.g., http://www.americanbar.org/groups/law_practice.html; and <http://apps.americanbar.org/dch/committee.cfm?com=EP024000>.

place in a Senior Lawyer's chambers. These Junior Lawyers are the life blood of the Sri Lankan legal profession and also of BASL. These types of programs should help facilitate member retention and interest in other BASL activities. Such programming is also helpful to more experienced practitioners who, for any number of reasons, may benefit from initiatives that reinforce good law practice management and business skills. All in all, these programs can help BASL maintain sustainability and vibrancy while also serving the public interest.

Recommendation 6: BASL Should Adopt Guidelines for Disciplinary File Management and Control, and Retention of Case Files.

Based on discussions during my visit and a review of Schedule C attached to the “Guidelines to be Adopted for Handling Complaints/Files Related to Complaints,” I agree that the management of disciplinary cases in Sri Lanka can be facilitated through enhanced recordkeeping procedures. Currently, file management for the BASL disciplinary system is handled by the Administrative Secretary, who, in addition to her other duties, serves as the clerk for the BASL disciplinary process. The Administrative Secretary, as the “convener” of the Ethics and Professional Purposes Committees, receives the complaints filed with BASL. If a complainant comes to the BASL offices to make a complaint, the Administrative Secretary assists that person in reducing the complaint to writing. This is a laudable practice and demonstrates commitment to helping the public. The Administrative Secretary creates and maintains the files relating to complaints and is responsible for making three copies of each file when an inquiry panel is convened. I was advised that this is all currently done manually, and that files are maintained onsite at the BASL offices. It was unclear at the time of my visit what level of security is afforded to those files. At the time of my visit there was no centralized database to track complaints and the status of those matters, but the creation of such a database was under discussion. I was also told that the Administrative Secretary’s staff may assist with investigations.

After receipt of a complaint, the Administrative Secretary sends an official acknowledgement of its receipt to the complainant (or asks the complainant to provide the missing required affidavit). Once any formal filing requirements are met, the Administrative Secretary refers the matter to the Overall Chair of the Ethics Committee or of the Professional Purposes Committee, depending on the nature of the complaint. If the Chair of either Committee determines that the matter does not warrant investigation or that the subject matter of the complaint is not within the jurisdiction of the Ethics or Professional Purposes Committee, they refer the complaint back to the Administrative Secretary and she communicates their decision to the complainant.¹²

If there is a basis for inquiry by either Committee, the Administrative Secretary requests a response from the lawyer who is the subject of the complaint. She also sends follow-up communication if necessary, refers requests for continuances to the Overarching Chair, and communicates to the lawyer the Chair’s response to such requests. The Administrative Secretary also sends to the relevant disciplinary committee Chair the information responsive to the complaint. Upon the setting of a date for an inquiry panel proceeding by the Ethics or Professional Purposes Committee Chair, the Administrative Secretary communicates that date to the lawyer and complainant and others who are to attend the inquiry. Upon the issuance of any order by a Committee, she conveys that to the parties and, if appropriate, refers the Committee’s findings to the Supreme Court for its action.

Given the role of BASL in the current disciplinary process, it is crucial that the leadership and the Administrative Secretary develop an enhanced system for maintaining and tracking disciplinary files and the documents contained therein. The papers contained in these files may include original documents provided by complainants (e.g., deeds) that may need to be reproduced and the originals

¹² Chart of BASL Inquiry Procedure from Training Workshop on Professional Ethics program materials, 2015.

returned to them. The documents in these files may also be used as evidence. As a result, the lawyers who are defending against charges of wrongdoing should be able to have access to copies to assist in their defense, and the files must be kept secure. If a matter is referred to the Supreme Court for suspension or revocation proceedings, it is important for all involved in the system that a complete and accurate file is conveyed to the Court. I offer the following suggestions understanding that resources in terms of personnel, technology, copying equipment, and office space are limited.

The Administrative Secretary should work with the Overarching Chair to develop and implement a database for tracking complaints made against Sri Lankan lawyers. The keeping of information about all complaints received, the status of proceedings, and summaries of case dispositions is important. The information contained in this database should include, at a minimum: the names, addresses, telephone numbers, and where available, email addresses for complainants and the lawyers against whom complaints are made; an assigned file number for each complaint; whether the complaint was initially filed with BASL or referred BASL for consideration by the Supreme Court; whether the complaint was referred to the Ethics or Professional Purposes Committee; the general nature of the complaint (e.g., failure to communicate, conversion of funds belonging to the client in a conveyancing matter, touting, or conflict of interest); the dates that the complaint was received, that the lawyer was asked to respond, of other communications requesting information; the dates that requested information was received and from whom; the dates and status of matters resolved via conciliation; the dates inquiries were held; when matters have been referred to the Executive Committee for action and the time they are pending there; information regarding requests for continuances and responses; the outcome of inquiries; and the date that the file was sent to the Supreme Court. In addition, information such as the gender, age, and practice demographics of the lawyers against whom complaints are made can be tracked. All of this information will provide useful data to help improve the efficiency of the system in the future and to provide information to the public and the bar about how the disciplinary system is operating.

The information in the database should be searchable and sortable so that statistical reports may be derived. For that reason, Excel may be optimal for creation of the initial database. For example, a search by a lawyer's name will help trace multiple complaints against that lawyer so that, if necessary, they can be bundled and handled together, thus increasing the efficiency with which the complaint process proceeds. Every time information is received on a file, a corresponding entry should be made immediately in the database so that no backlog of entries develops. The development of a backlog will negatively impact the efficiency with which matters proceed through the system.

The database can be used to create a "reminder" system to ensure that communication with all parties and the Committees and the inquiries proceed apace. The database will be an important tool to derive statistical reports mentioned above. Those reports will allow BASL to determine the number of cases pending at each stage of the process and how long it takes to resolve them, the number of cases resolved each year and the number that carry over into the following year, and the number of cases of special complexity. Data derived can be used to complete the annual report suggested in an earlier recommendation for posting on the BASL website and sending to the Supreme Court. The database can also be used to develop and adjust as necessary time standards for the processing of cases by the Ethics and Professional Purposes Committees.

At the outset, the creation of this database will be somewhat resource intensive as it will require not only creating and populating the fields for existing files, but for incoming matters. The Administrative Secretary and Overarching Chair should discuss how best to accomplish this. For example, it may be that final year law students or currently under-employed Junior lawyers could be asked to assist in this task.

I recommend that files be identified by the file number designated by the year and the order in which the complaint is received. For example, for 2016, the first complaint received would be given the file number 2016-01. This appears to be the method use by the Ethics Committee based upon a document provided during the on-site training. Another form of identifier could add the initials of the Committee to which the matter was referred (e.g., 2016-01-PPC).

As noted above, the physical files have evidentiary value. The documents in the files should be carefully maintained in an orderly manner, such as chronologically, with some notation on the file and/or database as to what documents are contained therein. The file contents should be secured somehow so that loose papers cannot fall out. The files should be secured in locked file cabinets.

Given the size of BASL offices, future consideration should be given to purchasing a scanner so that, to the extent possible, some disciplinary files can be maintained securely in electronic format. This will reduce the amount of paper files that take up space in the BASL offices.

Finally, I suggest that BASL leadership, in consultation with the Supreme Court, consider whether it is appropriate to adopt a rule providing for the destruction, after three years or more, of complaint records and corresponding files of matters terminated by dismissal. Once a reasonable time has elapsed after the dismissal of a matter there is little justification for keeping the records indefinitely, and this will help with space management for files. Three years is generally sufficient time in which to see whether a lawyer receives a number of complaints indicating that he or she may be engaged in a pattern of misconduct or for additional proof to substantiate an earlier dismissed complaint to arise. BASL leadership may also consider whether, in certain instances where a lawyer has received a number of complaints over the years, it makes sense to except those matters from the destruction policy. All records relating to a lawyer who has received any form of discipline or where the matter has been referred to the Supreme Court should be retained indefinitely.

Recommendation 7: BASL Should Enhance the Guidelines for Disciplinary Inquiries to Include Time Standards

Last year, the President of BASL “Guidelines to be Adopted for Handling Complaints/Files Related to Complaints.” The Executive Committee adopted these Guidelines. The creation and adoption of these Guidelines was an important and praiseworthy step to help increase the efficiency with which matters proceed through the BASL disciplinary inquiry process. For example, the Guidelines mention several times that matters should be handled expeditiously, and, for example, that the inquiry panels should strive to conclude matters within 4-6 months. I suggest enhancing those Guidelines to include more specific time standards, including recommended times for the Executive Committee to act on recommendations by the Professional Purposes Committee that a disciplinary matter be referred to the Supreme Court. At the time of my visit, I was advised that there were several matters awaiting Executive Committee action for more than a year. Consideration should also be given to including limits on the number of requests for continuances that will be granted.

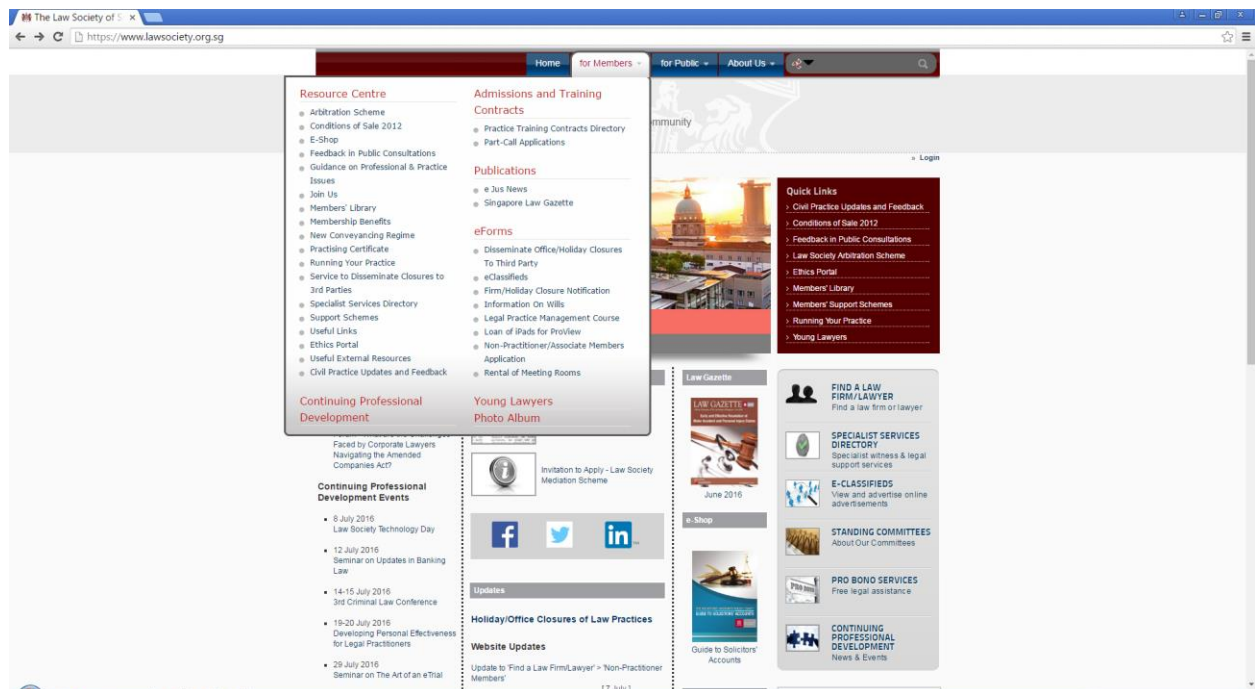
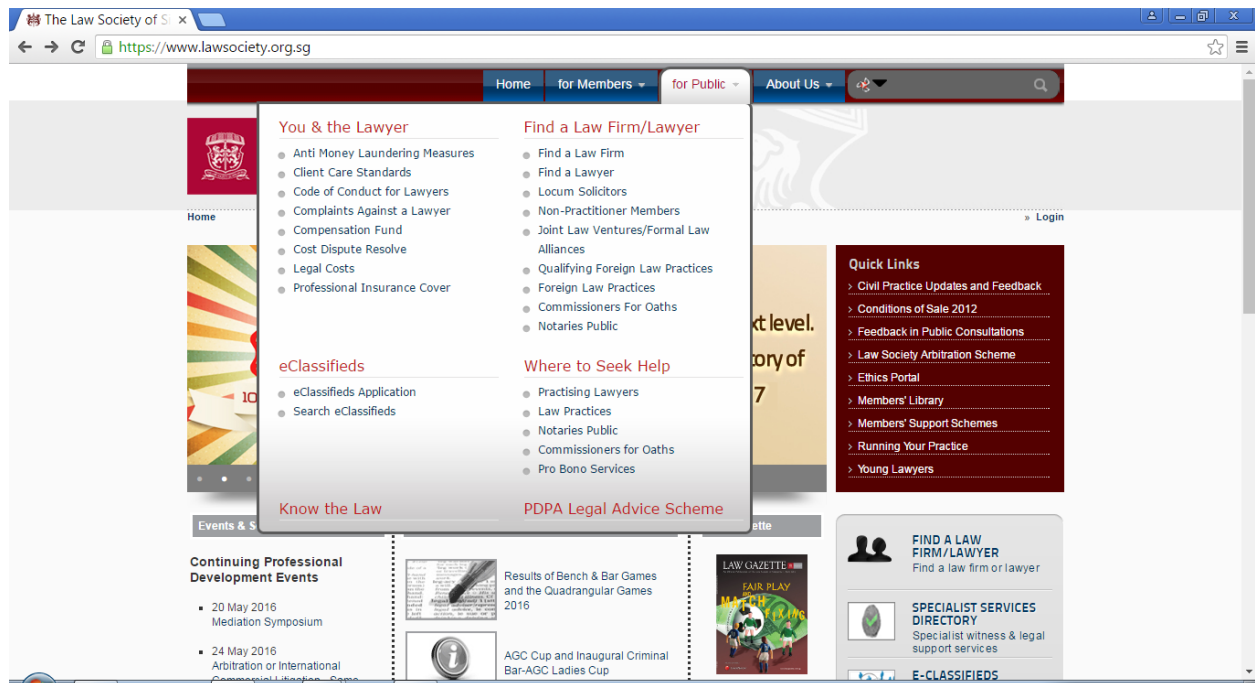
The creation of the case-tracking database described above will assist in the development of reasonable time standards for the BASL’s complaint handling process. With a system that utilizes volunteer lawyers to investigate and conduct inquiries, an analysis of this data will tell the BASL leadership and the Overarching Chairs of the Ethics and Professional Purposes Committees what types of cases take longer to investigate and which can be resolved more expeditiously. The data will also help show the frequency with which continuances are sought and why.

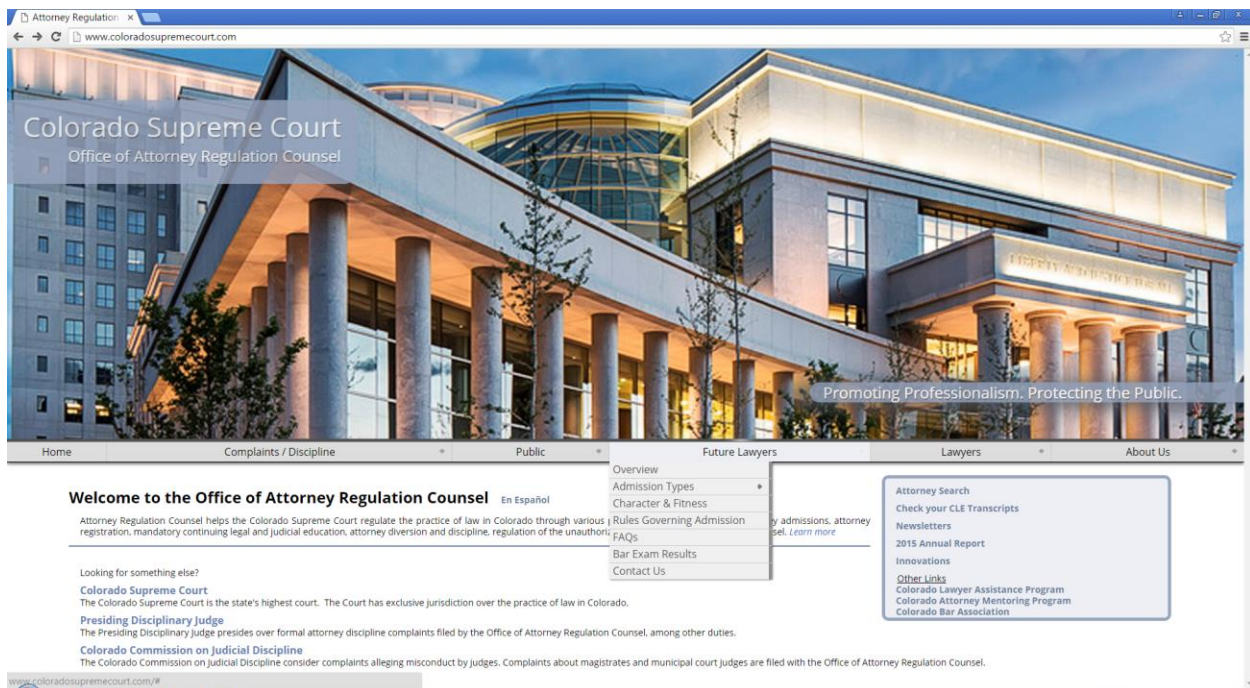
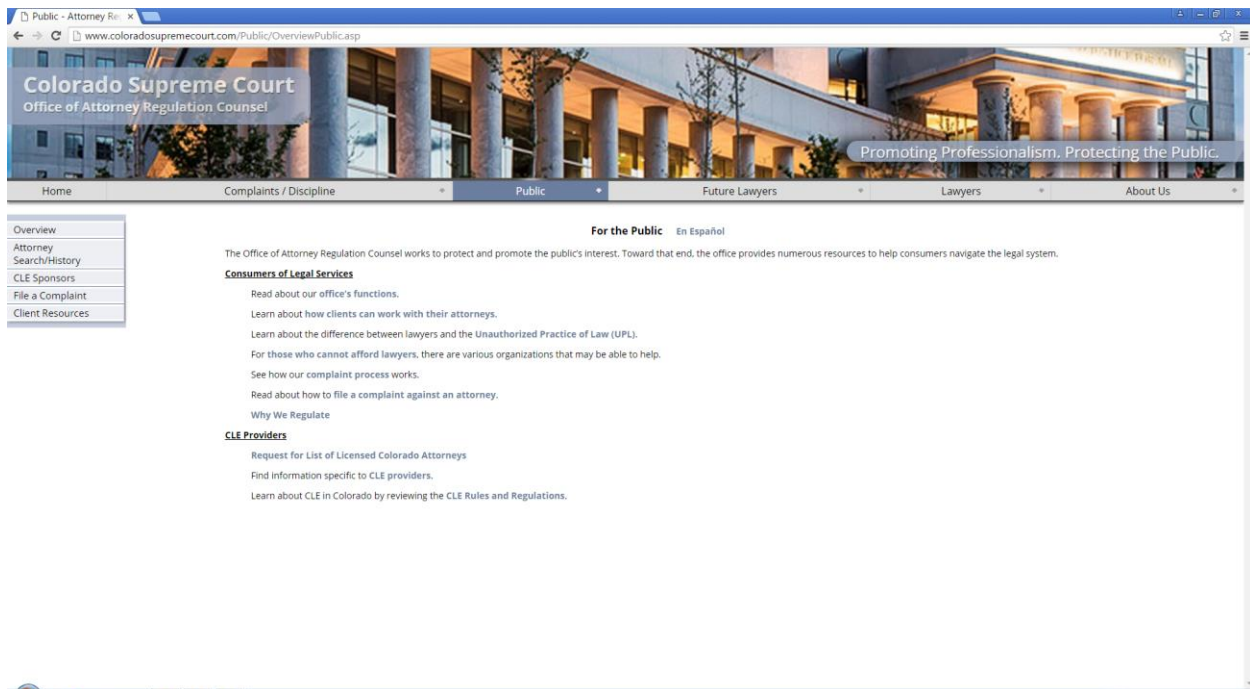
I suggest that BASL establish specific and reasonable time guidelines for the following: the screening of complaints made against lawyers to see if there is jurisdiction or a basis to investigate; the investigation of those complaints; the inquiry process (as noted above, the Guidelines suggest 4-6 months); and approval by the Executive Committee for referral to the Supreme Court. Upon referral by the Administrative Secretary, the screening of cases by the Overall Chairman of the Ethics or Professional Purposes Committee to determine whether a complaint is beyond the scope of its jurisdiction should take place expeditiously.¹³ More complicated matters may take longer to hear and develop recommendations.

The Executive Committee should, in the public’s best interest, act promptly upon Committee recommendations to refer matters to the Supreme Court for action. It is recommended that the Executive Committee act on these matters at their next scheduled meeting after the referral. These are matters where the Committee that conducted the inquiry has determined that conduct warranting suspension or removal has occurred, thus demonstrating that the lawyer is a threat to the public and the integrity of the profession. Delay in the referral of these cases to the Supreme Court jeopardizes the public and also risks creating a perception BASL is not optimally protective of the public.

¹³ For the time in which it takes U.S. jurisdictions to screen matter and process complaints at various stages, see http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/2014_sold_final_results.aut_hcheckdam.pdf.

APPENDIX A





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We work with solicitors, firms, other types of lawyers and non-lawyers to make sure they comply with our Principles, to make sure they behave independently, fairly and with integrity to best serve the interests of their clients and the public interest. We welcome information about dishonesty or breaches of our Principles; however, we are not able to deal with issues of poor service.

The Legal Services Ombudsman deals with complaints about poor service. Poor service includes failures to keep you properly informed about your legal matter. The SRA deals with failures to comply with professional obligations such as a duty to keep your affairs confidential or duty to act honestly and with integrity. Some failures to comply with professional obligations can also amount to poor service. The Legal Ombudsman's website will help identify how you can best receive help. If you report poor service to the Legal Services Ombudsman and they consider it amounts to a failure to comply with professional obligations they will also pass the matter to the SRA for us to consider. The Legal Services Ombudsman may direct a firm or individual pay you compensation for poor service. The SRA cannot award compensation to you. Our powers are regulatory and include taking action against the firm or individual concerned such as helping them to comply with their obligations or, where the issue is serious, controlling the way they work in the future.

If you have a problem with your solicitor, please read the following information carefully to find out

- how to complain to your solicitor
- how and when to complain to the Legal Ombudsman
- when you should report your solicitor or firm to the SRA
- how to report a solicitor or firm to the SRA
- what we will do when you report your solicitor to us, and
- our service levels, our role and legal powers

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The Law Society regulates Ontario's legal profession in the public interest. Legislation passed by the Government of Ontario, (primarily the **Law Society Act** and Regulations made under the Act) authorizes the Law Society to license Ontario's lawyers and paralegals and regulate their conduct, competence and capacity.

The Law Society's by-laws, **Rules of Professional Conduct** for lawyers and **Paralegal Rules of Conduct** - all based on the **Law Society Act** - set out the professional and ethical obligations of our lawyers and paralegals.

If you are concerned about a lawyer's or paralegal's conduct, you can **make a complaint**.

If you are a First Nations, Métis or Indian (FNMI) person, this **fact sheet** will help you understand how the Law Society receives, reviews, investigates and resolves concerns or complaints. The fact sheet also discusses the support available to you.

While most complaints are concluded without the need for a disciplinary hearing, some complaints do proceed to hearing. **Discipline hearings** are public.

If you've lost money because of a lawyer's or paralegal's dishonesty, the Law Society's **Compensation Fund** may be able to reimburse you for all or part of your loss.

If you are looking for information or documentation from the files of a lawyer or paralegal who is no longer practising, contact **Trustee Services** may be able to help you.

If you are looking for the status of a lawyer or paralegal, check the Law Society **Lawyer/Paralegal Directory**.

Only lawyers and paralegals can provide legal services directly to the public. **Illegal practitioners** are people who provide legal services directly to the public without a licence. The Law Society prosecutes illegal practitioners.

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Office of the Legal Services Commissioner

Welcome to the Office of the Legal Services Commissioner

The Office of the Legal Services Commissioner (OLSC) is an independent statutory body that deals with complaints about lawyers under the *Legal Profession Uniform Law Application Act 2014*.

The OLSC consists of the Legal Services Commissioner and staff who advise and assist the Commissioner in the exercise of his functions and powers. The Legal Services Commissioner receives all complaints about solicitors and barristers in New South Wales. In addition to receiving complaints, the Legal Services Commissioner:

1. Oversees the investigation of complaints;
2. Plays a major role in resolving consumer matters; and
3. May take disciplinary action against a solicitor or barrister, or commence disciplinary proceedings in the NSW Civil and Administrative Tribunal (NCAT) - Occupational Division.

The OLSC cannot:

- Provide legal advice or representation;
- Investigate or change court findings;
- Investigate a complaint in relation to a matter that is currently before a court; or
- Deal with complaints about judges or magistrates.

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- Can the OLSC meet with me and my lawyer to sort out the problem?
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- Can my lawyer sue me?
- Can I make a complaint anonymously?
- How long does it take from the time I lodge a complaint to the time I find out whether or not my lawyer will be disciplined or when my complaint will be resolved?
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- What is the difference between negligence and issues of misconduct?
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- Why can't I always get everything from my file?
- My lawyer pressured me into settling and I regret it. What can I do?
- If I have a complaint about a judge or a magistrate, where do I go?
- If I have a complaint about a licensed conveyancer, where do I go?
- If I have a complaint about a Migration Agent, where do I go?

How independent are you?

The Office of the Legal Services Commissioner (OLSC) is an independent statutory authority. The decisions of the Legal Services Commissioner about complaints are not subject to review by the Attorney General, and Minister for Justice, the Secretary of the Department of Justice or Parliament. Decisions can be appealed to the Supreme Court of NSW.

The OLSC is funded by the Public Purpose Fund (PPF) and not from State Treasury or Commonwealth taxation revenue. The PPF is established from interest on lawyers' Trust Funds.

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Tuesday, 28 June 2016 03:21PM	Disciplinary Orders (May 2016)
Thursday, 28 May 2015 04:25PM	Disciplinary Orders: April 2015
Monday, 25 April 2016 04:37PM	Disciplinary Orders: March 2015
Friday, 08 April 2016 01:44PM	Disciplinary Orders: January 2016 - February 2016
Monday, 15 February 2016 01:50PM	Disciplinary Orders: September 2015 - December 2015
Friday, 06 November 2015 12:28PM	Disciplinary Orders (June - August 2015)
Wednesday, 08 July 2015 03:12PM	Disciplinary Orders: April 2015 to May 2015
Thursday, 30 April 2015 11:33AM	Disciplinary Orders: January 2015 to March 2015
Monday, 09 February 2015 08:49AM	Disciplinary Orders: September 2014 to December 2014
Friday, 11 November 2014 12:47PM	Disciplinary Orders: August 2014
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Friday, 22 August 2014 03:32PM	List of Struck-Off Members Whereto Appeal / Reinstatement Allowed
Tuesday, 05 August 2014 10:46AM	Disciplinary Orders: May 2014
Tuesday, 05 August 2014 10:21AM	Disciplinary Orders: April 2014
Tuesday, 05 August 2014 09:56AM	Disciplinary Orders: March 2014
Tuesday, 06 May 2014 12:22PM	Disciplinary Orders for the Year 2013 & 2014 (December 2013 - February 2014)
	Disciplinary Orders: November 2013

2016 Sijil Annual Application Form
Click the link above to download the 2016 Sijil Annual and Practising Certificate Application Forms.

29th LAWASIA Conference 2016 - Golden Jubilee, Sri Lanka (12 to 15 Aug 2016)
Organised by the Law Association for Asia and the Pacific ("LAWASIA"), this conference will be held at Cinnamon Grand Colombo, 77, Galle Road, Colombo 03, Sri Lanka, from 12 to 15 Aug 2016 (Friday to Monday). The deadline for early bird rates (for international delegates) ends on 31 July 2016. Click on the link above for more details.

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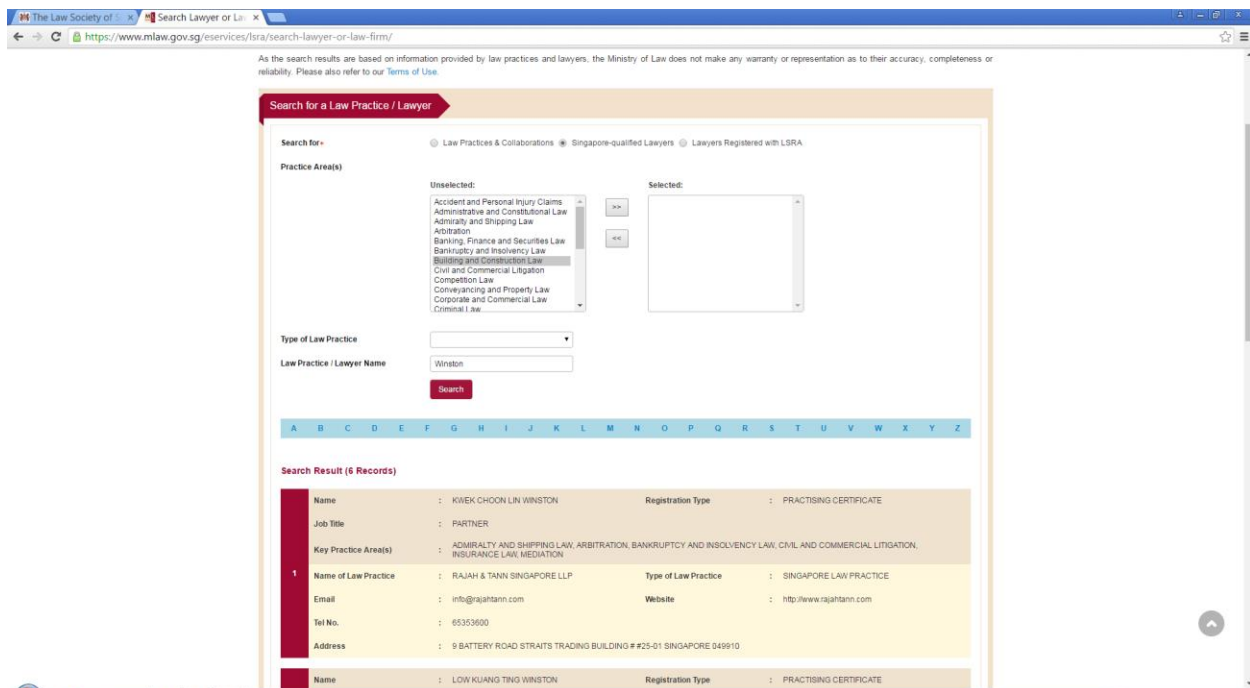
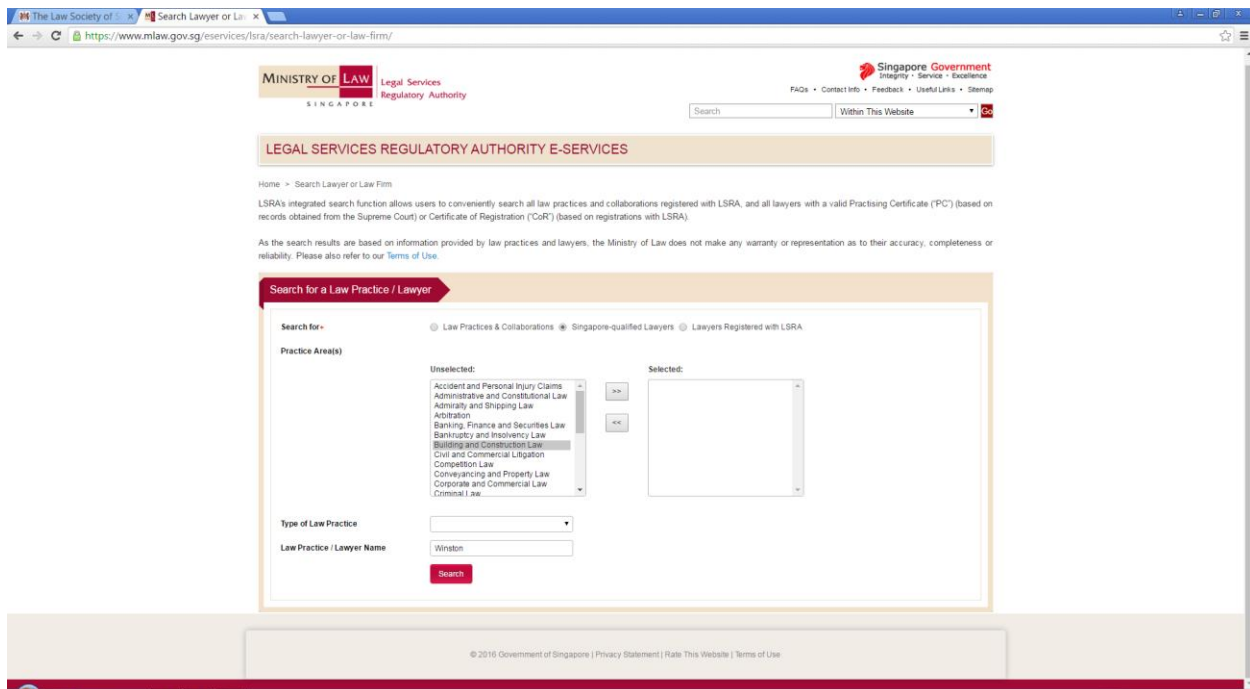
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Please take note that advocates and solicitors who have "No Firm" listed under the Firm column are not permitted to practise and are not covered under the Professional Indemnity Insurance scheme.

If your search does not yield any result, please re-try it using the "Search" box on the top right-hand corner of this page, or contact the Bar Council's Membership Department at 03-2050 2050.

Enter search criteria

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State/Region Order by

Browse Lawyers by State

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Starting a New Practice
If you are thinking of setting up your own law practice, click on the link above to view Bar Council's information and checklists to help you prepare for your new endeavour.

6th LAWASIA Family Law & Children's Rights Conference [9 to 11 June 2016]
Organised by LAWASIA, this conference will be held at Hotel Novotel Century Hong Kong, 238 Jaffe Road, Wanchai, Hong Kong SAR, from 9 to 11 June 2016 (Thursday to Saturday). Click on the link above for the pricing schedule and more details.

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Badan Peguam Malaysia
Protecting and assisting the public in all matters touching ancillary or incidental to the law

TUESDAY

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Find A Lawyer

ABOUT ABDUL RAHMAN B ABDULLAH

Name	ABDUL RAHMAN B ABDULLAH
Date of Admission	21-09-1985
Qualification/Institution	CANTERBURY
Firm	ABDUL RAHMAN & PARTNERS
Branch	Batu Pahat
Firm's Address	WISMA ABDUL RAHMAN 1918 NO. 1B, JALAN KUNDANG BATU PAHAT
Firm's Tel	07-4312217, 07-4318324
Firm's Fax	07-4321701/07-4336248
Firm's E-mail	info@abduhrahman.com.my
Firm's Website	
Others	
Last Update	2015-11-03 11:20:50

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Liberalisation of legal services
Foreign law firms / lawyers can now practise in Peninsular Malaysia. Click on the link above for details, or email your enquiry to international@malaysianbar.org.my.

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Search our lawyer directory
Use the Society's online **lawyer directory** to look up contact information for practising lawyers in Nova Scotia and non-practising members. You can search by name, firm / company or location.

Lawyer referral
Please note that it is the object and duty of the Society to regulate the practice of law within Nova Scotia. It is not our mandate to recommend lawyers. Contact the Legal Information Society of Nova Scotia (LISNS) for its **Lawyer Referral Service** at 1 800 665 9779 (toll free) or 902 455 3135. Find LISNS on the web at www.legalinfo.org.

Legal Aid
The Nova Scotia Legal Aid Commission provides legal representation to qualified applicants, with priority for matters involving liberty and civil rights, and integrity and protection of an individual's family. For details on qualifying and applying for legal aid, or to contact the nearest office, visit www.nslegalaid.ca.

The Courts of Nova Scotia
Visit www.courts.ns.ca for information about the courts in Nova Scotia, including locations and contact information.

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Profile for Andrew Christofi

Information below is current as of July 11, 2016, 01:10 pm, ADT

Andrew Christofi Noseworthy, DiCostanzo Diab 6670 Chebucto Road Halifax, NS B3J 1L4	
Telephone:	+1-902-444-4747
Fax:	+1-902-444-4301
Email:	achristofi@nddlaw.com
Website:	http://nddlaw.com/
Category:	Practising Lawyer See category explanations
Discipline:	none
Called to the Bar:	June 10, 2016

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Wilson, Alan Alexander Slessor A.C. Morrison & Richards LLP Total Solicitors: 6 Admission date: 08/04/1976			
Wilson, Alexander Neil Turcan Connell Total Solicitors: 79 Admission date: 01/11/1983			
Contact Details Princes Exchange 1, Earl Grey Street EDINBURGH EH3 9EE 0131 2288111 0131 2288118 Email Visit Website	Areas of law • Business premises • Company and commercial • Houses, property and neighbours Languages No languages specified	Accredited Specialisms No accredited specialisms specified	Solicitor advocate status No status specified Other solicitors at this office • Mr Ryan Bowie • Mrs Elizabeth Anne Bremner • Mrs Victoria Brown • Mrs Heather Catherine Bruce View More
Wilson, Alistair University of Glasgow Total Solicitors: 3 Admission date: 17/12/2002			
Wilson, Amanda Anne Thorntons Law LLP Total Solicitors: 122 Admission date: 04/08/2006			

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Use the form below to find attorneys who are registered with and practising in the jurisdiction of the Law Society of the Northern Provinces.

Attorney Name Province

Firm Name Town

Firm Address

Attorney search, certification and secure messaging provided by [PrivySeal](#)

RESULTS

Attorney: Barry David Aaron
 Firm Name: Aaron (Barry) & Associates Attorneys
 Physical Address: 38 Kallersbach Drive, Linksfield Ridge, Johannesburg
 Postal Address: P O Box 87505, Houghton, 2041
 Phone: 0116154678
 Fax: 01166581364
 Email: baaron@mweb.co.za

Attorney: Gordon Bernhard Aarons
 Firm Name: Shapiro - Aarons Inc. Attorneys
 Physical Address: 1 Unity Street, Cnr Unity Street & Louis Botha Venue, Fellside, Johannesburg
 Postal Address: P O Box 11107, Johannesburg, 2000
 Phone: 0114832346
 Fax: 0114831282
 Email: gordon@shapiroaarons.co.za

Attorney: **Samuel Aarons**

日本弁護士連合会 | Hong Kong Bar Association
 www.hkba.org/the-bar/bar-list/index-new-eng.html

Hong Kong Bar Association

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List of Pupils
Counsel's Chambers
Alphabetical Order
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Seniority Senior Counsel Junior Counsel List of Pupils	Counsel's Chambers Building (Alphabetical)
Alphabetical Order A B C D E F G H I J K L M N O P Q R S T U V W X Y Z	

Counsel

Lok, Lawrence, S.C. 略應淦 資深大律師

Address: 10/F, Printing House,
6 Duddell St.
Central, H.K.

Tel No.: 25260068
Fax No.: 28400131
Area of Practice: Criminal
Call: HK (1979), Inner HK (1994), UK (1978)

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**Year of call to the Bar in England and Wales or the Bar in Northern Ireland, or year of admission as an advocate in Scotland, is abbreviated in this Bar List as "UK (year)".*

***Year of Call is not an indication of year of commencement of practice, or of the period of actual or active practice.*

A1 Administrative and Public Law	D0 Discrimination	P2 Personal Injury
A2 Admiralty	E1 Electoral Law	P3 Personal International
A3 Arbitration	E2 Employment	P4 Politics and
B1 Banking	E3 Environmental Law	P5 Professional Negligence
B2 Building and Construction	F1 Family and Children	P6 Public International Law
C1 Chancery	I1 Immigration	R1 Rating Valuation and Land Compensation
C2 Charities	J1 Insolvency	S1 Sale and Conveyance
C3 Chinese Law and Customs	M1 Intellectual Property of Goods	S2 Securities
C4 Civil Liberties	L1 Land Law	S3 Shipping
C5 Commercial	L2 Litigation and Tribunal	T1 Tax Law
C6 Company Law	M2 Medical Negligence	T2 Telecommunications
C7 Consumer	M3 Mental Health	T3 Time Passing
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